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Report of the Special Rapporteur on minority issues

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on minority issues, prepared pursuant to Council resolution 25/5. In her report, the Special Rapporteur describes the activities carried out since her previous report to the Council and reflects on her six-year tenure as Special Rapporteur, providing an overview of the main issues relating to the mandate.

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** The annex to the present document is circulated in the language of submission only.

I. Introduction

1. The present report of the Special Rapporteur on minority issues, Rita Izsák-Ndiaye, is submitted pursuant to Human Rights Council resolution 25/5. It is the last report that she will submit to the Council as mandate holder. Section II contains an overview of her activities since her previous report to the Council (A/HRC/31/56). In section III, the Special Rapporteur reflects on her six-year tenure as mandate holder. She provides a brief overview of her thematic priorities and outcomes and considers some major challenges and emerging issues relating to the rights of persons belonging to national or ethnic, religious and linguistic minorities. She also provides some reflections on the work of the Forum on Minority Issues during her mandate.

2. The Special Rapporteur thanks the numerous entities that have supported and collaborated with the mandate during her tenure, including minority communities, Member States, United Nations agencies, civil society organizations, academic and research organizations, and numerous other stakeholders. She would like to particularly thank the Office of the United Nations High Commissioner for Human Rights (OHCHR) for the continuous support provided to the mandate.

II. Activities of the Special Rapporteur in 2016

3. The Special Rapporteur wishes to draw the attention of the Human Rights Council to the biannual bulletin published on her website, which summarizes all the activities of the mandate, including country visits, communications, thematic reports, press statements and public appearances.[1]

A. Country visits

4. During the reporting period, the Special Rapporteur conducted visits to Iraq, the Republic of Moldova and Sri Lanka. The reports of these missions will be issued as addenda to the present document.

5. The Special Rapporteur visited Iraq from 27 February to 7 March 2016. She expressed the need for bold steps to be taken to give hope to ethnic and religious groups facing an uncertain future. She concluded that while all communities had suffered under the criminal brutality of the so-called Islamic State of Iraq and the Levant (ISIL), also known as *Daesh*, many smaller ethnic and religious groups, including the Yazidis, had borne the brunt of violence and atrocities and thousands had been displaced. Some community leaders stated that their communities felt vulnerable to violence and abandoned and were concerned about their future in the country, with many deciding to leave Iraq. She acknowledged that confronting the clear and immediate danger posed by ISIL must be a high priority of the Government. However, she highlighted that the challenges faced by many minority groups did not begin with ISIL and would not end with its defeat. She expressed her belief that long-standing societal discrimination and marginalization of ethnic and religious groups must be more comprehensively acknowledged and confronted and a clear message must be sent to all of the country's diverse communities that they do have a future in Iraq.

[1] See www.ohchr.org/EN/Issues/Minorities/SRMinorities/Pages/SRminorityissuesIndex.aspx.

6. The Special Rapporteur visited the Republic of Moldova from 20 to 29 June 2016. She called on the Government to further promote the linguistic rights of minorities and to strengthen the unity between various population groups in the country. She emphasized that diversity should be valued as an important asset and strength of the Republic of Moldova. She has observed that the use of the mother tongue is highly important and emotive for many communities and an essential aspect of personal and community identity. She therefore urged that measures be taken to minimize the politicization of the use of languages, which often leads to polarization and might threaten peaceful coexistence if not resolved. She stressed that the future of the Republic of Moldova must be shaped and defined on the basis of such values and principles as respect for human rights, good and inclusive governance and the protection of minority rights, not by geopolitical labels.

7. The Special Rapporteur visited Sri Lanka from 10 to 20 October 2016. She urged the Government to seize the momentum gained by the new administration and to show its commitment to minority rights through concrete action. She noted that to achieve peaceful coexistence after the long, devastating civil war, a comprehensive, well-planned and well-coordinated truth, reconciliation, healing and accountability process must take place, and it could not be done overnight. However, she also stressed, that at the same time, the Government must rapidly put in place significant and concrete measures to clearly demonstrate its political will and commitment to better protect the dignity, identity, equality and right to participation in all walks of life of Sri Lanka's minorities.

B. Communications

8. The Special Rapporteur continued to send communications in the form of letters of allegation and urgent action letters relating to minority issues to Member States, the majority sent jointly with other relevant mandate holders. These are publicly available, together with the responses from the States concerned.[2]

C. Update on the Forum on Minority Issues

9. The Special Rapporteur was requested by the Human Rights Council, in its resolutions 6/15 and 19/23, to guide the work of the Forum on Minority Issues. The ninth session of the Forum was held in Geneva on 24 and 25 November 2016, with a thematic focus on minorities in situations of humanitarian crises. More than 500 delegates participated, including representatives of Member States, United Nations mechanisms, regional intergovernmental bodies, civil society and minorities. The recommendations of the Forum will be presented to the Council at its current session.

D. Events and conferences

10. From 13 to 15 January 2016, the Special Rapporteur participated as a keynote speaker at a Wilton Park event in London titled "Protecting the rights of ethnic and religious minorities: addressing contemporary global challenges".

11. On 24 and 25 January, she conducted an unofficial visit to Japan at the invitation of the Japan Federation of Bar Associations, where she delivered a keynote speech at a symposium on hate speech in the media and possible regulations.

[2] See www.ohchr.org/EN/HRBodies/SP/Pages/Communicationsreports/SP.aspx.

12. From 2 to 4 February, she participated in the second international meeting of the Global Action Against Mass Atrocity Crimes, held in Manila, on the topic "Preventing atrocities: how to strengthen national atrocity prevention architectures".

13. On 14 March, she met with a delegation of the European Parliament to discuss the situation of minorities in Europe, with a special focus on Roma.

14. On 16 March, she participated as a keynote speaker in a side event organized by OHCHR, held in Geneva during the session of the Human Rights Council, on minorities and caste-based discrimination.

15. On 26 and 27 April, she participated in the eleventh meeting of the Council of Europe Ad Hoc Committee of Experts on Roma and Traveller Issues, held in Sofia, where she presented the findings of her 2015 comprehensive study on the human rights situation of Roma worldwide, with a particular focus on the phenomenon of anti-Gypsyism (A/HRC/29/24).

16. From 22 to 24 May, she attended the World Humanitarian Summit in Istanbul, Turkey.

17. On 8 July, at the invitation of the Government of Hungary, she spoke at an international conference, held in Budapest, to mark the fifth anniversary of the adoption of the European Union Framework for National Roma Integration Strategies up to 2020.

18. On 11 July, she delivered the opening speech at the Global Minority Rights Summer School in Budapest, organized by the Tom Lantos Institute, the Hungarian National University of Public Service and Middlesex University London.

19. On 12 July, she chaired the event titled "Leave no one behind: ensuring inclusion of the most marginalized and socially excluded communities in the Sustainable Development Goals", held at United Nations Headquarters on the occasion of the high-level political forum on sustainable development. She also participated as a keynote speaker at an event on Dalit and other marginalized women challenging inequalities, organized by the Asia Dalit Rights Forum and other partners at the Baha'i Center in New York.

20. On 18 August, she briefed the Committee on the Elimination of Racial Discrimination in Geneva about the work of her mandate and the Forum on Minority Issues, and discussed areas of mutual interest and potential collaboration.

21. On 5 October, she participated as a panellist at the fifth workshop on regional arrangements for the promotion and protection of human rights, organized by OHCHR in Geneva.

22. On 27 October, she convened a consultative session in New York ahead of the ninth session of the Forum on Minority Issues on the topic "Minorities in situations of humanitarian crises".

23. On 28 October, she presented her annual report to the General Assembly (A/71/254), which focused on minorities in situations of humanitarian crises.

24. On 16 November, she participated as a panellist at the ninth Budapest Human Rights Forum, organized by the Ministry of Foreign Affairs and Trade of Hungary.

25. On 24 November, she spoke at the event titled "Promoting and protecting minority rights through visual arts", organized in Geneva by OHCHR and the Canton and City of Geneva.

26. On 25 November, she participated as a speaker at the event titled "Excluded: stateless minorities in times of crisis", organized in Geneva by Minority Rights Group and the Permanent Mission of Austria to the United Nations Office at Geneva.

E. Statements

27. The Special Rapporteur issued several public statements, most of them jointly with other mandate holders, highlighting issues of concern involving minorities. The statements are available on her website.

F. Detailed analysis of communications sent by the mandate

28. The Special Rapporteur has conducted an analysis of all the communications sent since the inception of the mandate until 1 December 2016, which can be found on the website. The main findings are contained in the annex to the present report.

G. Follow-up on country visit recommendations

29. In October 2016, the Special Rapporteur wrote to the Governments of all the States that had received official visits from her or her predecessor, to inquire about the implementation of the recommendations made in the country visit reports.[3] She would like to thank the Governments of Bulgaria, Canada, Colombia, France, Greece, Hungary, Rwanda and Viet Nam for their responses. She prepared a short summary report on the basis of the responses received, which is available on the mandate's website.

H. Research on minority issues during the second cycle of the universal periodic review process

30. The Special Rapporteur conducted a second round of research analysing all minority-related recommendations made during the second cycle of the universal periodic review. The report is available on the website.

III. Reflections on the six-year tenure of the Special Rapporteur

A. Introduction

31. As she approaches the end of her tenure as mandate holder, the Special Rapporteur has undertaken a review of the major developments relating to her work, particularly with respect to the thematic priorities she had decided to focus on at the beginning of her mandate (A/HRC/19/56), as well as the major challenges and emerging issues in the field of minority rights protection that she came across during her tenure.

32. During the course of her work, the Special Rapporteur has promoted the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and other relevant international standards, and considered the following four main pillars of minority rights protection: (a) the protection of a minority's survival by combating violence against its members and preventing genocide; (b) the protection and promotion of the cultural identity of minority groups, and

[3] The States concerned were Bosnia and Herzegovina, Brazil, Bulgaria, Cameroon, Canada, Colombia, the Dominican Republic, Ethiopia, France, Greece, Guyana, Hungary, Kazakhstan, Nigeria, Rwanda, Ukraine and Viet Nam. The country visits undertaken in 2016 (to Iraq, the Republic of Moldova and Sri Lanka) were not included.

their right to enjoy their collective identity and to reject forced assimilation; (c) the guarantee of the rights to non-discrimination and equality, including ending structural or systemic discrimination and the promotion of affirmative action, when required; (d) the right to effective participation of minorities in public life and in decisions that affect them. This approach has served as a fundamental tool in the assessment of States' compliance with minority standards and in defining specific areas of analysis in the thematic and country reports.

33. During her tenure, from August 2011 to December 2016, the Special Rapporteur focused her thematic reports to the Human Rights Council and the General Assembly on the following topics: the role and activities of national institutional mechanisms in promoting and protecting minority rights; the rights of linguistic minorities; minority rights-based approaches to the protection and promotion of the rights of religious minorities; ensuring the inclusion of minority issues in post-2015 development agendas; preventing and addressing violence and atrocities against minorities; hate speech and incitement to hatred against minorities in the media; minorities in the criminal justice system; minorities and discrimination based on caste and analogous systems of inherited status; and minorities in situations of humanitarian crises. At the invitation of the Council, she prepared a comprehensive study on the human rights situation of Roma worldwide, with a particular focus on the phenomenon of anti-Gypsyism.

34. The Special Rapporteur conducted a total of eight official country visits, to Bosnia and Herzegovina, Brazil, Cameroon, Iraq, Nigeria, the Republic of Moldova, Sri Lanka and Ukraine.

35. The Forum on Minority Issues continued to serve as a unique platform for dialogue between minority representatives, civil society, academia, United Nations agencies and Member States on the challenges and progress made relevant to minority rights protection. In section E below the Special Rapporteur discusses the current state of the Forum and makes recommendations on how to improve it further.

B. List of priorities identified at the beginning of the mandate and updates on achievements

36. In her first thematic report to the Human Rights Council (A/HRC/19/56), the Special Rapporteur identified, on the basis of the provisions of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, eight thematic priorities to feature in her work during her term as mandate holder. These focus areas reflected some of the priorities that had been brought to her and her predecessor's attention by minorities themselves. In the present section, the Special Rapporteur summarizes the activities undertaken that are relevant to those priorities.

1. Rights of linguistic minorities

37. Issues and concerns have frequently been raised with the previous mandate holder relating to the rights of linguistic minorities. The Special Rapporteur therefore decided to pay special attention to the rights of and challenges faced by linguistic minorities. In order to examine the problems and to identify positive practices from all regions, she prepared a thematic report (A/HRC/22/49) to the Human Rights Council as well as a practical handbook focusing on the rights of linguistic minorities.

38. In her report, the Special Rapporteur emphasized that for minorities, language was a central element and expression of their identity and of key importance in the preservation of group identity. Language was often particularly important to non-dominant communities seeking to maintain their distinct group and cultural identity, sometimes under conditions of

marginalization, exclusion and discrimination. Minority language rights and language use were frequently a source of tensions, both between and within States. Proponents of linguistic rights had sometimes been associated with secessionist movements or had been seen as a threat to the integrity or unity of a State. The Special Rapporteur pointed out that it was often only when minorities asserted their rights to identity and language that discrimination or persecution started. Fulfilling the rights of minorities, including their language rights, was an essential means to prevent tensions from emerging and was a key element of good governance and conflict prevention. If not appropriately addressed at an early stage, such tensions had led to protracted conflicts and deepening of divisions between linguistic groups. Where conflicts had ceased or peacebuilding initiatives were under way, it was essential that all groups in society should play a full role in discussions, negotiations and decision-making processes.

39. Following her thematic study on the rights of linguistic minorities, the Special Rapporteur produced the handbook "Language rights of linguistic minorities: a practical guide for implementation", which is available in all six official languages of the United Nations on the mandate's website. This linguistic guide aims to serve as a practical tool to assist policymakers and right holders to have a better understanding of linguistic rights as well as to provide best practices that could be replicated in different contexts.

2. Rights and security of religious minorities

40. Information received by the previous mandate holder and the work of the Special Rapporteur on freedom of religion or belief, as well as other holders of thematic mandates, have revealed disturbing patterns of attacks and violence against members of religious minorities and their places of worship. In this context, the Special Rapporteur presented a thematic report to the General Assembly in 2013 (A/68/268) on minority rights-based approaches to the protection and promotion of the rights of religious minorities.

41. In her report, the Special Rapporteur indicated that she had become increasingly alarmed by the situation of millions of persons belonging to religious minorities globally who frequently faced discrimination, social exclusion, marginalization and, in many instances, harassment, persecution and violence. It was the primary duty of States to protect the security of religious minorities. Beyond reacting to incidents of violence, this duty required positive and preventive actions through active engagement with religious minorities. The Special Rapporteur advocated a minority rights-based approach to the protection of religious minorities that not only included guarantees for freedom of religion or belief, but also required States to take positive legislative and policy measures and concrete steps to create substantive equality for religious minorities in all areas of cultural, economic, political, public, religious and social life. Protection of minority rights, together with initiatives by States to foster dialogue between faith groups, helped to build a culture of understanding, acceptance and trust across faiths and helped to prevent tensions from emerging and deteriorating into violence and conflict.

3. Recognition of minorities

42. The Special Rapporteur welcomed the work of her predecessor relating to the rights and status of members of minorities in all regions that find themselves denied or deprived of citizenship, and has continued to raise awareness on these specific communities.

43. In her last report to the General Assembly (A/71/254), which focused on minorities in situations of h manitarian crises, the Special Rapporteur discussed in a separate section statelessness as a factor leading to increased vulnerability. She emphasized that minorities were often disproportionately affected by statelessness as a result of discriminatory nationality and citizenship legislation that could deny citizenship to some ethnic, linguistic, racial or religious groups or deprive them of citizenship, or because of discriminatory

implementation of nationality laws on similar grounds. Minorities could also be at higher risk of statelessness as a result of lack of access to personal documentation. She emphasized that in times of humanitarian crisis, conflict or natural disaster, such a lack of protection could be particularly acute. Statelessness was often a root cause of forced displacement, particularly in times of crisis. Forced displacement could in turn heighten the risk of becoming stateless, particularly as documents could be lost during flight.

44. Additionally, the Special Rapporteur has repeatedly called attention to minority groups that have been in particularly precarious legal situations owing to their lack of citizenship or the refusal of their respective countries to recognize and grant them rights as minorities. She has sent several communications to Member States where discriminatory legislative amendments, immigration reforms and other administrative decisions have placed minority communities at further risk.[4]

4. Cross-cutting issues: youth and women belonging to minorities

45. The previous mandate holder recognized the role and potential of young men and women within minority communities to inspire and promote change and develop positive relations across communities, as well as to be agents of change within their communities. The Special Rapporteur has continued to engage with young people from minority communities to learn about their views and ideas and to encourage them to take leadership roles as well as to engage in positive activities to promote intercultural dialogue. She also continued to systematically engage with minority women and to consult them on their issues and concerns in all aspects of her work, including during country visits and in her communications to specific States.

46. The Special Rapporteur dedicated the first Forum on Minority Issues under her leadership, the fourth session, to the topic "Guaranteeing the rights of minority women". The Forum participants recognized that it was particularly important that the voices and views of minority women be heard and that they be consulted and have the opportunity to participate fully in all aspects of life, both within their communities and in the wider society. Barriers to the empowerment of some minority women, including lack of social or economic contacts, networks or minority women's support groups, and scarcity of female minority role models had an important impact on the enjoyment by minority women and girls of their human rights. The Forum considered specific thematic areas in detail, for example, the access of minority women and girls to education; their ability to take part effectively in economic life and to have access to labour markets; and issues relating to their participation in social, cultural and political life. It recommended that Governments should seek and encourage opportunities for women's participation and work together with minority communities as well as minority and women's rights organizations to develop and implement programmes to sensitize minority women about their rights, and men about minority women's rights. All the relevant documents, including statements, the final recommendations and the summary report, are available on the Forum's website.[5]

47. Additionally, the Special Rapporteur organized separate meetings with minority women during her country visits to enable free and open discussions with them. Similarly, she frequently reached out to youth groups and organizations to listen to their views and recommendations. Wherever possible and necessary, the Special Rapporteur included the

[4] See, inter alia, allegation letters to the Governments of the Bahamas, case BHS 1/2015 (A/HRC/30/27); the Dominican Republic, cases DOM 3/2013 (A/HRC/25/74) and DOM 1/2014 (A/HRC/29/50); Myanmar, cases MMR 4/2014 (A/HRC/28/85) and MMR 5/2015 (A/HRC/30/27); and the United States of America, case USA 4/2012 (A/HRC/21/49).

[5] See www.ohchr.org/EN/HRBodies/HRC/Minority/Pages/Session4.aspx.

issues of women and girls in separate sections of her thematic and country reports to enhance their visibility and help raise awareness on their very specific challenges and situations.

5. Achieving the Millennium Development Goals for disadvantaged minorities

48. The Special Rapporteur appreciated the work undertaken by her predecessor to highlight the situation of minorities in the context of the Millennium Development Goals, work that was highly important as the international community approached the 2015 deadline for achieving the Goals. She decided to dedicate a thematic report to the Human Rights Council (A/HRC/25/56) to ensuring the inclusion of minority issues in post-2015 development agendas.

49. In her report, the Special Rapporteur noted with concern that minorities often remained among the poorest and most socially and economically excluded and marginalized communities globally and that tens of millions of persons belonging to minorities were trapped in a cycle of discrimination, exclusion, poverty and underdevelopment from which they could not break free without targeted attention to their situations. Poverty within minority communities was both a cause and a manifestation of their diminished rights, opportunities and social advancement. The Special Rapporteur deeply regrets that despite the pledges for an inclusive 2030 Agenda for Sustainable Development, no explicit reference to minorities was included in the final document. She firmly believes that the successful implementation of the 2030 Agenda can only be achieved by taking into consideration the situation of minorities, and calls on States to fulfil in practice the principle of leaving no one behind.

6. Role of minority rights protection in conflict prevention

50. The Special Rapporteur sought further opportunities to build on the work of the previous mandate holder on the role of minority rights protection in conflict prevention presented to the General Assembly in 2010 and the Human Rights Council in 2011, and dedicated her report to the General Assembly in 2014 (A/69/266) as well as the seventh session of the Forum on Minority Issues to preventing and addressing violence and atrocities against minorities.

51. In her report to the General Assembly, the Special Rapporteur shared her observation that persons belonging to minorities were frequently the victims of violence and atrocities. Violence could take the form of attacks on individuals, their homes, shops or places of worship, or wider acts of aggression against communities with different national, ethnic or religious identities. In the worst cases, violence constituted mass atrocities, crimes against humanity, war crimes, ethnic cleansing and even genocide, often perpetrated with impunity. Sometimes violence was committed by non-State actors, including those belonging to the majority, or by larger, more powerful groups, extremist groups, or even business actors. Sometimes it was perpetrated by State actors.

52. She recalled that a primary objective of the United Nations and of most States in the area of peace and stability was to prevent violence before it broke out. The tragic experiences of past violence and atrocities had helped to better understand the causes of violence and the fact that minorities were frequently targets, and to produce indicators to predict violent incidents and provide early warning. However, States too often failed to translate clear early warnings into adequate, appropriate and timely measures to prevent or stop violence. In order to save lives and ensure peaceful societies, a high priority of stakeholders at all levels must be to improve prevention mechanisms and turn early warning into early action. At the national level, good and inclusive governance that included minorities and measures to ensure equality was a key prevention prerequisite. The international community must also improve its ability to engage and assist States in efforts

to prevent and resolve violence and to intervene effectively where States failed in their responsibility to protect minorities.

7. Role of minorities in advocating for their rights

53. The previous mandate holder emphasized that while Governments bore the primary responsibility for protecting and ensuring the rights of all within society, minorities themselves had a vital role and important responsibilities relating to their own communities and their place and integration in wider society. Therefore, the Special Rapporteur recognizes and applauds the work of grass-roots organizations and individuals in every region of the world working with and on behalf of disadvantaged minority communities to protect and promote their rights.

54. To date, the present Special Rapporteur and the previous mandate holder together sent a total of 26 communications to Member States jointly with the Special Rapporteur on the situation of human rights defenders, addressing situations whereby minority rights defenders were targeted because of their work. Some of them suffered reprisals, arrest and detention, as well as expulsion, in connection with their human rights activities.[6] The Special Rapporteur raises her deep concerns about cases of reprisals against minority rights defenders, and urges minority activists to inform her Office whenever any intimidation or reprisal occurs in connection with their work, so that appropriate action can be taken.

8. Increased outreach and networking with minority groups

55. The Special Rapporteur had identified the need to expand the group of minority activists and experts cooperating with the mandate and providing information. She wished to support the establishment of a global network or caucus of minorities that would serve as a communication link between diverse minorities and minority rights-focused non-governmental organizations (NGOs) from all regions and facilitate the sharing of information on a systematic basis among minorities, and between the United Nations and minority groups. She also committed herself to helping the United Nations, in particular OHCHR, to establish and expand contacts with minority civil society organizations.

56. The Special Rapporteur has prepared a contact list of interested minority activists who wished to be kept informed about the activities undertaken under the mandate and who were subsequently included in the mailing list. She also provided contact information to the OHCHR NGO database, which now includes details and information about various minority civil society organizations. She welcomes current initiatives by the OHCHR Indigenous Peoples and Minorities Section to create a database of all minority fellows who participated in the OHCHR Fellowship Programme. She believes that this group of former fellows would be well positioned to make important contributions to the work of OHCHR and the mandate with respect to minorities, eventually forming an important caucus to advance United Nations activities.

[6] See, inter alia, communications sent to the Governments of China, case CHN 11/2008 (A/HRC/11/2/Add.1); Colombia, case COL 5/2015 (A/HRC/32/53); Greece, case GRC 3/2012 (A/HRC/23/51); India, case IND 4/2013 (A/HRC/24/21); Lithuania, case LTU 1/2015 (A/HRC/31/79); Malaysia, case MYS 5/2011 (A/HRC/18/51 and Corr.1); Nepal, cases NPL 6/2014 (A/HRC/28/85) and NPL 2/2015 (A/HRC/31/79); and Turkey, cases TUR 2/2011 (A/HRC/18/51 and Corr.1), TUR 6/2011 (A/HRC/19/44) and TUR 1/2012 (A/HRC/20/30).

C. Major challenges identified

57. In the following paragraphs, the Special Rapporteur highlights issues that have consistently emerged during the course of her work, including country visits, which she considers as requiring greater attention by Governments, the international community and minority groups.

1. Major barriers to the effective promotion and protection of minority rights

58. The Special Rapporteur wishes to state at the outset that she is of the view that the progress achieved in the last decades in the field of minority rights protection is under threat, and that there is a serious risk that guarantees that have been put in place could be reversed. In recent years, protracted and recent conflicts of various kinds around the globe have led to an unprecedented number of internally displaced persons, migrants and refugees, many of whom belong to minority groups. Increasing hate speech, xenophobic rhetoric and incitement to hatred against minorities have been coupled with the rise of far-right and extremist political parties that are using minorities as scapegoats to divert domestic attention from entrenched and structural problems. Developments in the field of counter-terrorism legislation, discrimination and lack of representation of minorities in governmental structures and within the administration of justice globally have resulted in minorities being increasingly targeted. Widespread attacks against minority individuals and communities, perpetrated with total impunity in different regions, demonstrate the continuing vulnerability faced by minorities around the globe.

59. The Special Rapporteur is alarmed at the rise of populism, which hampers efforts to include minorities in the national psyche in their respective countries. She is concerned that even the very notion of democracy is being challenged and that there are views that are widely shared, especially on social media, that a democratically elected political leadership has the power to take any decision freely, without, and even against, minorities because minorities — usually being inferior in number — are subject to the will of the majority. The Special Rapporteur stresses that democracy requires good and inclusive governance under which legal, administrative and territorial arrangements are made to allow peaceful and constructive group accommodation on the basis of equality in dignity and rights for all and that allows for the pluralism necessary to enable persons belonging to different groups to preserve and develop their identity (see E/CN.4/Sub.2/AC.5/2005/2, Commentary, para. 13).

60. The Special Rapporteur is concerned that in some regions and in several countries, minority rights protection is not seen to be important, or even relevant, owing to deliberate denial or lack of understanding of its legitimacy. There is a need for stronger awareness-raising on what the entire minority rights protection regime entails, that it also includes wide-ranging issues around religious and linguistic identity, and that the effective promotion and protection of the rights of minorities contribute to the political and social stability of States and, therefore, are always timely and important. It is essential to understand that majority-minority relations should be assessed not only from a national perspective but also specifically in the context of smaller territorial and local levels, where the dynamics and dimensions of identity, ethnicity, religion, language and access to power and resources are frequently more important and play a greater role in the daily lives of individuals and communities. The notions of "majority" and "minority" may be interchangeable and depend on the particular context, as a group that constitutes a dominant majority nationally or regionally may be numerically inferior and non-dominant in another region. Therefore, minority rights standards must also be applied to those groups constituting de facto minorities in the localities where they live.

61. The Special Rapporteur has observed challenges to use of the term "minority" for certain distinct communities, either because they reject being referred to as minorities on the basis of a perceived negative connotation, or because they self-identify as minorities but the State refuses to recognize them as such.

62. In certain regions, she has found that groups that fall or would fall under the legal category of "minorities" because of the distinct cultural, linguistic, religious or other identity of their members reject the use of the term, which they regard as "derogatory", "discriminatory", or establishing a "second-class" category of citizens. In these cases, groups tend to use alternative nomenclature to refer to themselves, such as "religious groups", "communities", "societal components" and others.

63. While the Special Rapporteur fully respects the principle of self-identification, she considers that further efforts are necessary to fully convey the meaning, scope and implications of the term "minority" to minority groups themselves, so that the term can be reclaimed and used with the empowering intent it actually holds. She reiterates that the term "minority" does not imply any inferiority or diminished status in any way, but rather the recognition that the principles of equality and non-discrimination are not fulfilled for certain groups. Minority protection entitles persons belonging to minorities to specific rights, imposing concrete obligations on States to ensure the survival and continued development of the cultural, religious and social identity of the minorities.[7]

64. In some instances, States are reluctant to recognize the existence of minority groups within their territories, and therefore reject the concept of "minority" and the recognition of minority status for those groups. In other cases, States legally recognize certain groups as minorities in their constitution, but apply restrictive definitions or discriminatory criteria, for example, when introducing citizenship as a distinguishing criterion for granting minority rights (ibid., para. 10).

65. The Special Rapporteur recognizes that the lack of a universally accepted legal definition of the term "minority" in international law may create inconsistencies. However, she also recalls that in the absence of a formal definition, the existence of a minority group can be assessed using objective and subjective criteria on the basis of international standards.[8] Objective criteria include, inter alia, shared characteristics of the group such as ethnicity, national origin, culture, language or religion. Subjective criteria focus on the principle of self-identification and the desire to preserve the group identity. According to the principle of self-identification, individuals belonging to minority groups have the right to self-identify or not to self-identify as a minority. She further recalls that the existence of an ethnic, religious or linguistic minority in a given State does not depend upon a decision by that State but must be established by objective criteria. Moreover, the minority need not be nationals or citizens, or even permanent residents.[9]

66. Furthermore, the Special Rapporteur acknowledges that in order to avoid protection gaps, the minority rights framework can and should be applied to groups that, although belonging to the same ethnic, religious or linguistic group as the larger community are in a non-dominant (and often marginalized) position and suffer stigma, self-identify as minorities and have historically used the minority rights framework to claim their rights. This is the case of many caste-affected groups worldwide, to which the Special Rapporteur devoted her previous thematic report to the Human Rights Council (A/HRC/31/56).

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[7] Human Rights Committee, general comment No. 23 (1994) on the rights of minorities, para. 9.

[8] Ibid. See also Working Group on Minorities, Commentary to the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (E/CN.4/Sub.2/AC.5/2005/2).

[9] Human Rights Committee, general comment No. 23, para. 5.2.

67. The Special Rapporteur has observed that certain groups within minority communities, such as minority women, children, older persons, persons with disabilities, and lesbian, gay, bisexual and transgender persons, experience unique challenges and multiple and intersectional forms of discrimination emanating from their status as members of minorities and their specific condition or situation. The Special Rapporteur encourages further research to fully understand their situation and calls for targeted actions to address their particular challenges.

68. Global migration patterns often drive certain migrants to form more or less compact communities in their host country. States must make concerted efforts to support members of new minorities to integrate into the national labour market, social fabric and collective psyche and to establish guarantees for them to freely practise their language, religion, traditions and culture. Feelings of alienation and lack of belonging, as often experienced by migrants, and feelings of fear and threat, as often experienced by citizens, may induce anti-social and even criminal behaviour, including extremism. Such feelings should be met with proactive diversity programmes helping migrants and citizens to connect and know each other better, and favouring social integration for all.

69. The Special Rapporteur has often been struck by the general lack of knowledge and understanding about the most disadvantaged minorities and their daily struggles for basic human rights and dignity. This is often compounded by negligence on the part of authorities, owing to non-inclusive governance, lack of channels of communication between minorities and authorities and lack of accessible spaces for safe exchange of the various views, concerns, experiences and aspirations. The Special Rapporteur is concerned that growing inequalities in many parts of the world and the increasing concentration of power in the economic and political spheres as well as in the media will lead to further marginalization of those who are already on the bottom. She believes that communication, trust-building and power-sharing between various groups belonging to different societal strata are prerequisites for sustainable development, peace and stability.

70. The Special Rapporteur has been particularly alarmed by the limited, or often complete lack, of minority presence in political and public offices. She has repeatedly stressed throughout her tenure the need to ensure that minorities are included in all decision-making processes, including in municipal and government structures, law enforcement bodies, the judiciary, legislative bodies, criminal justice systems and all authorities, especially when their decisions affect minorities. Without their participation, such bodies are less able to make vital decisions in a way that benefits the entire society, and they will also be less trusted by minorities, who might be reluctant to access them, or discouraged from doing so.

71. The Special Rapporteur recalls that the various forms of discrimination, violence and atrocities are different manifestations of similar mind sets and are often rooted in fear, ignorance, feelings of insecurity or, simply, envy of the other. She regrets the disconnect between the psychological, social and legal studies in this field, and urges the United Nations to pay increased attention to better understanding the actual psychosocial motives behind prejudice, racism, bigotry and hatred so they can be better addressed and prevented.

2. Need for adequate data collection and statistical analysis

72. As the Special Rapporteur has repeatedly stated in her thematic and country visit reports, it is crucial for States to be aware of the composition of their population, including who the minority groups are, in order to obtain an accurate picture of the number, geographical distribution, identity and socioeconomic status of minority groups. Collection and statistical analysis of disaggregated data on minorities are essential tools for designing and monitoring adequate policies and targeted plans for minorities. In the process of collection and analysis of disaggregated data, provisions should be made to safeguard

against discrimination, stigmatization and any misuse of sensitive information, in accordance with international standards of personal data protection and privacy.

73. Disaggregated data-gathering should be conducted at the national, regional and local levels through the national census and periodic social surveys, accompanied by appropriate statistical analysis. It is essential to include data takers from diverse backgrounds, including minority persons, especially in territories where minorities are concentrated. Census questions should allow for open and multiple responses to enable respondents to self-identify according to their national, ethnic, religious and linguistic affiliation, including multiple identities. It is necessary to develop various socioeconomic indicators and indices to adequately assess possible marginalization of and discrimination against minorities with respect to, inter alia, access to education, employment, health, housing and public services. Moreover, other forms of surveys, such as population surveys that measure experiences, perceptions and attitudes, and situation-testing surveys to directly measure discrimination in specific instances may be necessary to fully understand the status of minorities.

3. Strengthening the institutional framework for better protection of minority rights

74. International as well as national legal frameworks on minority rights are essential. However, they are not sufficient to guarantee the actual implementation of the rights of persons belonging to minorities. The Special Rapporteur has repeatedly emphasized that specialized mechanisms need to be put in place at all levels to facilitate legislative and policy development and the design, implementation and monitoring of minority-related programmes (A/67/293). And while Governments have the primary responsibility to implement minority rights, regional and universal mechanisms are called upon to play an important role in supporting, guiding and monitoring States' compliance with international standards on minority rights.

75. Specialist national institutions and mechanisms on minority rights should have proactive mandates that include, inter alia, reviewing and proposing domestic standards and providing expertise and information to legislative drafting and policymaking processes; monitoring laws and policies with respect to minority rights and recommending amendments or implementation measures; encouraging and coordinating programming on minority issues and strategies devised to address problems relating to minorities; promotion and education activities; developing good practice guides, information resources and reports; developing campaigns and outreach relating to minority rights and building bridges and working as effective channels of communication between minority communities and the public administration. Their role is of paramount importance to ensure that the enjoyment of minority rights is a reality and not merely an aspiration.

76. The Special Rapporteur often came across gaps between the ambitious policies, legislation, action plans and programmes on minorities, on the one hand, and the lack of mechanisms in place to actually carry them out or monitor their implementation, on the other. She is concerned that during her tenure, several countries had difficulties in identifying the most relevant governmental departments in charge of minorities and even when they did so, their capacities in terms of staff, budget and authority often did not meet the necessary minimum standards to provide effective attention to and protection of minorities.

77. The Special Rapporteur is of the view that given the importance of realizing minority rights as an essential means to prevent tensions and conflict, investment in institutional attention to minority issues is needed more than ever. States should redouble their efforts to institutionalize expertise in minority rights before tensions arise, in order to identify potential problems and implement effective prevention measures. This is important not only for States with significant minority populations and where there is a history of ethnic or religious tensions or conflict, but for all States, owing to the present international

migration dynamics whereby new minorities are called upon to coexist with other groups who have been established for a longer time on the territory.

78. The national dimension of the institutional attention to minority issues must be complemented and reinforced by solid regional and international mechanisms tasked to promote domestication of minority rights, as well as the protection and promotion of minority standards regionally and internationally. In this regard, the Special Rapporteur recognizes several existing good practices, such as the High Commissioner on National Minorities of the Organization for Security and Cooperation in Europe and various dedicated mechanisms of the Council of Europe, while also noting the need for further strengthening regional mechanisms. For instance, there are no specialized mechanisms on minorities within the African Commission on Human and Peoples' Rights, the Economic Community of West African States or the Association of Southeast Asian Nations. The Special Rapporteur began a dialogue, encouraging the creation of focal points on minorities within regional mechanisms as a starting point, and urged that consideration be given to the possible extension of the mandates of relevant existing bodies.

4. Strengthening the role of the United Nations in the protection of minorities

79. The Special Rapporteur welcomes the increasing attention devoted by the United Nations to minority issues worldwide in recent years, as well as within the system itself. This includes the creation in 2012 of the United Nations network on racial discrimination and the protection of minorities,[10] coordinated by OHCHR and comprised of more than 20 United Nations departments, agencies, programmes and funds. The network developed specific recommendations and principles for effective United Nations action in addressing racial discrimination and protection of minorities in line with international standards, which were issued as a guidance note of the Secretary-General in 2013.[11]

80. In view of the current state of affairs, with increasing hate speech, xenophobic rhetoric and incitement to hatred against minorities, coupled with the rise of far-right and extremist political parties worldwide, the Special Rapporteur believes that it is crucial to appoint a high-level official on minority issues within the Secretariat and to establish senior positions within United Nations departments and agencies dedicated solely to issues of minority rights protection, diversity management and safeguarding pluralistic societies. The designation of minority focal points in all United Nations field offices would also be a great step forward.

81. The Special Rapporteur also believes that United Nations staff in all offices and entities, particularly in the field, should better reflect the national, ethnic and religious makeup of the societies in which they operate. Staff members from minority groups not only bring expertise on the issues affecting minorities to the work of the United Nations, but also serve as a bridge between United Nations and minority communities. The Special Rapporteur was pleased to identify good practices in this regard. In 2012, the United Nations country team in the Republic of Moldova conducted an internal survey to assess the diversity of its staff and launched an internship programme for persons belonging to the identified underrepresented groups, including persons with disabilities, Afro-descendants and Roma. The Special Rapporteur strongly encourages the replication of this initiative in other United Nations offices.

82. As part of its crucial role on minority issues, it is imperative that the United Nations take a stronger stance in advocating for minority rights protection at both national and

[10] Policy Committee decision No. 2012/4 of 6 March 2012.

[11] Available from www.ohchr.org/Documents/Issues/Minorities/GuidanceNoteRacialDiscriminationMinorities.pdf.

regional levels, to ensure that States strengthen their legal, policy and institutional frameworks and that regional anti-discrimination and minority rights standards and mechanisms are put in place for the protection and promotion of minority rights, respectively. Equally, the Organization should consider strengthening existing mechanisms and platforms for minorities within the United Nations system, including the Forum on Minority Issues, by providing additional resources. Furthermore, the establishment of a committee to monitor the implementation of the Convention on the Prevention and Punishment of the Crime of Genocide of 1948 is long overdue and would assist Member States in complying with their obligations under the Convention.

D. Commemoration of the twenty-fifth anniversary of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

83. The twenty-fifth anniversary of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities will take place in 2017. This anniversary provides a unique and timely opportunity to reflect on the past achievements and to look forward to identify ways to further strengthen international standards on minority rights protection. In its preamble, the Declaration states that "the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of States in which they live" and emphasizes that the constant promotion and realization of such rights "as an integral part of the development of society as a whole and within a democratic framework based on the rule of law, would contribute to the strengthening of friendship and cooperation among peoples and States".

84. The Special Rapporteur encourages United Nations offices and agencies, Member States and civil society and minority representatives to organize specific initiatives to mark this important anniversary to further promote awareness of the Declaration and consider specific issues most relevant to minorities.

E. Forum on Minority Issues

85. The Forum on Minority Issues, which replaced the Working Group on Minorities, was established in 2007 by the Human Rights Council in resolution 6/15 and reaffirmed in 2012 by resolution 19/23. It is mandated to provide a platform for promoting dialogue and cooperation on issues pertaining to national or ethnic, religious and linguistic minorities, as well as to provide thematic contributions and expertise to the work of the Special Rapporteur on minority issues. The Special Rapporteur is tasked with guiding the work of the Forum, preparing its annual meetings and reporting on the thematic recommendations of the Forum to the Council. The Forum meets annually in Geneva for two working days, allocated to thematic discussions. An average of more than 500 participants attend the Forum, including minorities, Member States, United Nations mechanisms, regional intergovernmental bodies and NGOs.

86. The mandate of the Special Rapporteur thus complements and enhances the work of the Forum, and the Special Rapporteur has fostered the complementary and mutual reinforcement of both mechanisms throughout her tenure. She has guided a total of six sessions of the Forum on the following themes: "Guaranteeing the rights of minority women" (2011), "Implementing the United Nations declaration on minority rights: identifying positive practices and opportunities" (2012), "Guaranteeing the rights of religious minorities" (2013), "Preventing and addressing violence and atrocity crimes targeted against minorities" (2014), "Minorities in the criminal justice system" (2015) and

"Minorities in situations of humanitarian crises" (2016). Since 2013, the Special Rapporteur has devoted her annual thematic report to the General Assembly to the same topic as the Forum session, as a means to contribute to and inform the discussions within the Forum. The Special Rapporteur notes that the themes she selected for the annual sessions focused on areas that had emerged as particularly concerning or problematic for minorities and where they believed that minority rights should be better applied and mainstreamed. She believes that the Forum makes a vital contribution to deepening international understanding on these important and topical areas as well as to international standard and norm setting.

87. During her tenure, the Special Rapporteur has promoted the work of and the recommendations emanating from the Forum on Minority Issues in other forums. As a regional follow-up activity to the Forum, she travelled to Banjul in April 2013 to attend the fifty-third ordinary session of the African Commission on Human and Peoples' Rights where, among other activities, she organized a public side event with the participation of Commissioner Soyata Maïga, who served as Chair of the fifth session of the Forum. That event provided an opportunity to brief the participants about the mandate and the Forum, and to share information related to minorities with different African human rights mechanisms. In November 2015, the Special Rapporteur organized a side event during the eighth session of the Forum to consider, inter alia, ways to improve the structure and working methods of the Forum, to share best practices on how to better mainstream its recommendations and to discuss how United Nations mechanisms, in particular the Forum, could remain relevant for and accessible to minorities on the ground. In October 2016, on the occasion of the presentation of her report to the General Assembly, she convened a consultative session in New York that served as an opportunity to discuss the draft recommendations of the Forum ahead of its ninth session as well as to raise awareness of the work of the Forum outside Geneva and engage relevant stakeholders in New York.

88. It will be essential to ensure the effective continuation of the Forum on Minority Issues. The Special Rapporteur wishes to thank in particular the Governments of Austria and Hungary for their generous support from the outset. The Special Rapporteur hopes that more States will attach increased importance to this unique platform. She encourages them to demonstrate their commitment to minority rights by contributing to the funding of the Forum so as to ensure its sustainability and progress.

89. It will be important in the future to consider bringing the Forum on Minority Issues into the various regions so members of minorities and NGOs who cannot afford to travel to Geneva will be able to contribute to the Forum's deliberations in their respective localities. It would also be desirable to extend the session for longer than two days so more participants could take the floor and the discussions could go deeper into the heart of the recommendations. Other challenges include the limited awareness of the Forum at regional and local levels and the lack of capacity to follow up on the implementation of its recommendations. Furthermore, it will be important to foster the ownership of the Forum's agenda by minorities themselves, to encourage focused and constructive participation of States and minority representatives, to strengthen the engagement of other United Nations bodies in the Forum and to promote a more interactive dialogue and discussion during its sessions.

90. Next year will mark the tenth anniversary of the creation of the Forum on Minority Issues, and the Special Rapporteur considers this to be an ideal opportunity to further reflect on the above-mentioned challenges and ways to better promote and achieve the goals of the Forum.

IV. Conclusions and recommendations

91. **The Special Rapporteur is concerned that, with increasing hate speech, xenophobic rhetoric and incitement to hatred against minorities, coupled with the rise of extremists and far-right political parties, the progress achieved during the past decades in the field of minority rights protection is under threat. Therefore, she urges that swift and concrete guarantees be put in place to preserve those achievements and to allow further improvement. Such guarantees must come in the form of strengthened legislative and institutional frameworks for minority rights protection, as well as demonstrating an unequivocal political will to foster conditions for a cohesive society where there is unity in diversity.**

92. **The Special Rapporteur calls upon States to review their respective domestic legislation to ensure that it is fully in line with the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. She recalls the four pillars of minority rights protection that should be reflected in those laws: (a) the protection of a minority's survival by combating violence against its members and preventing genocide; (b) the protection and promotion of the cultural identity of minority groups, and their right to enjoy their collective identity and to reject forced assimilation; (c) the guarantee of the rights to non-discrimination and equality, including ending structural or systemic discrimination and the promotion of affirmative action, when required; (d) the right to effective participation of minorities in public life and in decisions that affect them. The Special Rapporteur wishes to stress that merely having non-discrimination clauses, according to which all members of the society are to be treated equally, without the aforementioned additional guarantees have often proven insufficient for effective protection of disadvantaged minorities.**

93. **The Special Rapporteur has observed challenges to the use of the term "minority" for certain distinct communities, either because they reject being referred as minorities on the basis of a perceived negative connotation, or because they self-identify as minorities but the State refuses to recognize them as such. She considers that further awareness-raising is required to fully convey the meaning, scope and implications of the term "minority", so that it can be reclaimed and used with the empowering intent it actually holds. Moreover, she recalls that the existence of an ethnic, religious or linguistic minority in a given State does not depend upon a decision by the Government but needs to be established by objective criteria. Members of those minorities need not be nationals or citizens, or even permanent residents. Therefore, she encourages States to be as inclusive as possible when designing protection measures for all disadvantaged minorities within their territories, including migrant workers and newly arrived minorities.**

94. **The Special Rapporteur is concerned that minorities are often disproportionately affected by statelessness as a result of discriminatory nationality and citizenship legislation that may deny citizenship for some ethnic, linguistic, racial or religious groups or deprive them of citizenship. Today, at least 10 million people around the world are denied a nationality and, although there are no disaggregated data, estimates indicate that many, if not most, of them belong to minority communities. Therefore, she welcomes current United Nations efforts, including the I Belong campaign to end statelessness of the Office of the United Nations High Commissioner for Refugees, and urges Member States to pledge their full support and cooperation so statelessness can be ended and so that it will not be a further source of stigmatization and discrimination against minorities.**

95. Legal frameworks on minority rights are essential but not sufficient to guarantee the actual implementation of the rights of persons belonging to minorities. Dedicated institutional attention in the form of specialized mechanisms at all levels need to be put in place to facilitate legislative and policy development and the design, implementation and monitoring of minority-related programmes.

96. The national dimension of the institutional attention to minority issues must be complemented and reinforced by solid regional and international mechanisms tasked with promoting domestication of minority rights as well as the protection and promotion of minority standards regionally and internationally. The Special Rapporteur encourages regional systems to adopt strong minority rights standards and establish dedicated mechanisms, where they do not yet exist, to protect and promote the rights of minorities.

97. The Special Rapporteur is gravely concerned at the limited, or often complete lack, of a minority presence in political and public offices. She has repeatedly stressed throughout her tenure the need to ensure that minorities are included in all decision-making processes, including in municipal and government structures, law enforcement bodies, the judiciary, legislative bodies, criminal justice systems and all authorities, especially when their decisions affect minorities. Without their participation, such bodies are less able to take vital decisions for the benefit of the entire society and may be less trusted by minorities, who may be reluctant to access them, or discouraged from doing so. Moreover, good and inclusive governance, which includes minorities and measures to ensure equality, are key conflict-prevention prerequisites. Good governance includes legal, administrative and territorial arrangements that allow for peaceful and constructive group accommodation on the basis of equality in dignity and rights for all and that allows for the necessary pluralism to enable the persons belonging to the different groups to preserve and develop their identity.

98. The Special Rapporteur believes that similarly, United Nations staff in all offices and entities, particularly in the field, should better reflect the national, ethnic and religious make-up of the societies in which they operate. With established, strong networks of consultation with minorities and trust-building efforts between United Nations offices and minority communities, the Organization will be better equipped to fulfil its vital role in recognizing and responding to early warning signs of intercommunal tensions and be better prepared to prevent mass atrocity crimes and genocide, of which minorities are the most frequent targets.

99. The United Nations in general should advocate more strongly for minority rights protection at both national and regional levels, to seek to ensure that States strengthen their legal, policy and institutional frameworks and that regional anti-discrimination and minority rights standards and mechanisms are put in place for the protection and promotion of minority rights, respectively. Equally, the Organization should consider strengthening existing mechanisms and platforms for minorities within the United Nations system, including the Forum on Minority Issues. It would be important for the United Nations network on racial discrimination and the protection of minorities to regularly update the Human Rights Council about its work. Furthermore, the establishment of a committee to monitor the implementation of the Convention on the Prevention and Punishment of the Crime of Genocide is long overdue and would assist Member States in complying with the Convention. It would also be crucial to appoint a high-level official on minority issues within the Secretariat as well to establish senior positions within United Nations departments and agencies to look into issues of minority rights protection, diversity management and safeguarding

pluralistic societies. The designation of minority focal points in all United Nations field offices would be another great step forward.

100. The Special Rapporteur has repeatedly emphasized that the collection and statistical analysis of disaggregated data on minorities are crucial to obtain important baseline information on the actual situation and status of minority communities. Such data would allow for adequate policy responses to minority issues, including the establishment and monitoring of targeted actions and programmes to prevent and address poverty, exclusion and discrimination. The Special Rapporteur urges States to collect data disaggregated on the basis of, inter alia, gender, ethnicity, language and religious affiliation. Individuals should be able to self-identify and express multiple identities. Data collection should be periodic and comply with international standards of privacy and personal data protection.

101. Minorities remain among the poorest and the most socially and economically excluded and marginalized communities globally, yet targeted attention to their situations is lacking. The Special Rapporteur believes that the adoption of the 2030 Agenda for Sustainable Development, although it failed to include an explicit reference to minorities, provides important momentum for their inclusion in the actions to be undertaken for its implementation. She firmly believes that the successful implementation of the 2030 Agenda can only be achieved by taking into consideration the situation of minorities, and calls on States to fulfil in practice the principle of leaving no one behind.

102. Next year marks the twenty-fifth anniversary of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. This anniversary constitutes a reminder of and a crucial opportunity to strengthen international standards on minority rights protection. The Special Rapporteur encourages United Nations offices and agencies, Member States and civil society and minority representatives to organize specific initiatives to mark this important anniversary to further promote awareness of the Declaration and to use the opportunity to revisit specific issues most relevant to minorities.

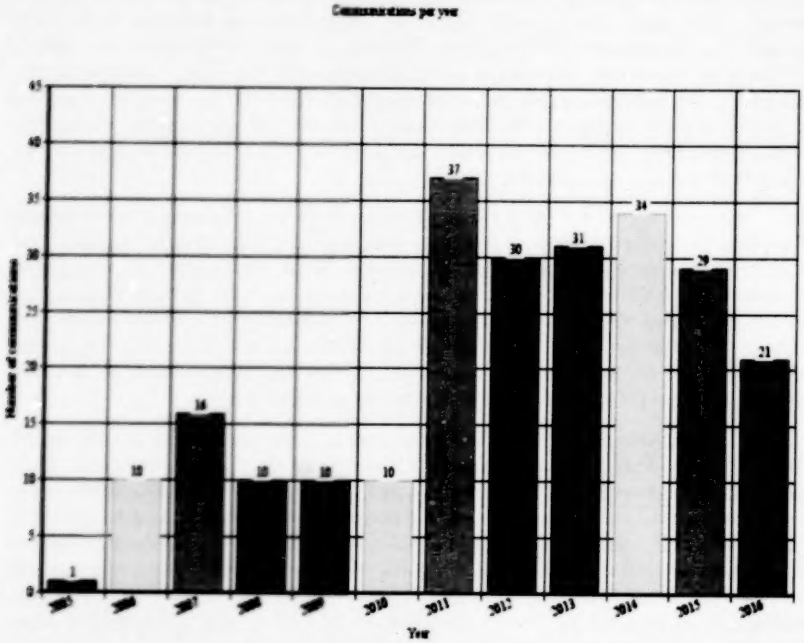
103. Next year also marks the tenth anniversary of the creation of the Forum on Minority Issues. This will provide a unique opportunity to discuss how to strengthen and support the functioning of this unique and global platform to facilitate dialogue and address relevant issues pertaining to minorities. The Forum should be provided with the necessary resources to fully implement its mandate. The Special Rapporteur encourages consideration to be given to raising the Forum's profile at the regional and international levels, following up the implementation of its recommendations, fostering ownership of the Forum's agenda by minorities and promoting a more interactive dialogue and discussions during the Forum's sessions.

104. The Special Rapporteur particularly encourages OHCHR to launch an awareness-raising and action campaign, including through the United Nations network on racial discrimination and the protection of minorities, on the occasion of the two anniversaries. Such a campaign should advocate for better mainstreaming of minority rights across United Nations departments and agencies and could highlight the most important emerging issues and best practices to assist Member States in strengthening their minority rights protection efforts.

Annex

Main data on communications sent by the mandate of the Special Rapporteur on minority issues (2005-2016)

1. From 1 August 2005 to 1 December 2016, the Special Rapporteur on minority issues sent a total of 239 individual communications to Governments. In 2005, the first year of the mandate, only one communication was sent. Since then, there has been an almost steady increase in the number of communications sent annually, with the highest number of communications sent in 2011, when the current mandate holder took office. The breakdown in the number of individual communications sent each year is shown in the figure below (the figure for 2016 is as of 1 December).



2. The distribution of communications by region during the period under examination was also analysed. The largest number of communications (118) were sent to States in the Asia-Pacific region. The Europe and Central Asia region came second, with 75 communications, followed by the Middle East and North Africa region, with 21. Countries in the Americas region received 16 communications, while the Africa region received 9 communications.

3. Out of the 239 communications sent by the Special Rapporteur, 232 were addressed to Governments jointly with other mandate holders; only 7 communications were sent by the Special Rapporteur alone. Altogether, the number of joint communications amounted to 97 per cent of the total number.

4. Of the joint communications, 118 were joint allegation letters and 114 were joint urgent appeals. The Special Rapporteur sent one allegation letter and six urgent appeals

without other mandate holders joining. The number of joint urgent appeals (49.1 per cent) and joint allegation letters (50.9 per cent) was almost even.

5. The most frequent partners of the Special Rapporteur were the Special Rapporteur on freedom of religion or belief (105 communications); the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (54); the Working Group on Arbitrary Detention (49); the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (49); the Special Rapporteur on extrajudicial, summary or arbitrary executions (42); and the Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living (41). The other mandate holders who joined with the Special Rapporteur in sending communications were the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (41); the Special Rapporteur on freedom of peaceful assembly and of association (34); the Special Rapporteur on the situation of human rights defenders (26); the Special Rapporteur on the independence of judges and lawyers (22); the Special Rapporteur on violence against women, its causes and consequences (17); the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran (17); the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (17); the Special Rapporteur in the field of cultural rights (15); the Working Group of Experts on People of African Descent (11); the Special Rapporteur on the situation of human rights in Myanmar (11); the Special Rapporteur on the right to education (11); the Special Rapporteur on the human rights of migrants (10); the Working Group on the issue of discrimination against women in law and practice (10); the Special Rapporteur on the rights of indigenous peoples (8); the Special Rapporteur on the right to food (8); the Working Group on Enforced or Involuntary Disappearances (8); the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (7); the Special Rapporteur on extreme poverty and human rights (7); the Special Rapporteur on the human rights of internally displaced persons (5); the Special Rapporteur on the sale of children, child prostitution and child pornography (4); the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances (3); the Special Rapporteur on trafficking in persons, especially women and children (2); the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (1); and the Working Group on the issue of human rights and transnational corporations and other business enterprises (1).

6. The victims of violations of minority rights have been a disparate group, including individuals and small groups of human rights defenders, lawyers, religious minorities and ethnic minorities. The mandate holders also sent a considerable number of communications raising concerns about draft legislation that could have a negative or discriminatory effect on persons belonging to minorities, as well as about the lack of implementation of certain policies or action plans.

7. In terms of the reasons for the communications, the largest number of communications (94) was sent on issues concerning religious minorities. There were also 10 cases where the issues in question related to groups that qualified both as religious and as ethnic minorities. The second-largest group of victims was ethnic minorities, concerning which 72 communications were sent; 114 communications were sent on cases concerning Roma. There were 26 communications concerning human rights defenders working on promoting and protecting the rights of persons belonging to minorities who suffered reprisals, including expulsion, arrest or detention in connection with their human rights activities, and two cases concerning lawyers. In 20 cases, the victims of violations were not groups, but individuals.

8. The mandate holders also sent 41 communications concerning the situation of Roma around the world. Eight communications raised concerns about draft or existing pieces of legislation, while four communications concerned the rights of indigenous peoples (who sometimes also qualified as ethnic or religious minorities).

9. The mandate holder has acted on a wide variety of information originating from various sources. While data are not available for the entirety of the communications sent during the period under review (information regarding the source of the communication in 31 cases is missing from the database of the Office of the United Nations High Commissioner for Human Rights), it is still evident that the largest group by far that sent information was international non-governmental organizations (NGOs) (102 cases, 44 per cent), the second being domestic NGOs (44 cases, 18 per cent). Next were international organizations (26 cases, 10 per cent), regional NGOs (12 cases, 5 per cent); the Special Rapporteur herself (7 cases, 3 per cent) and individuals (6 cases, 2.5 per cent). Information was also received from academia, political parties, government agencies, the media, law firms, religious organizations and other institutions.

10. From among the international NGO sources, Amnesty International stands out as having provided the information most often used in communications sent (44 out of 99, 44.4 per cent), with the Baha'i International Community in second place (10 out of 99, 10 per cent). Other international NGO sources whose information was frequently used included Front Line (5 out of 99), the European Roma Rights Centre (5 out of 99), Minority Rights Group International (2) and the Centre on Housing Rights and Evictions (2). Therefore, international NGOs specialized in minority protection issues accounted for only a small fraction of source information acted on by the Special Rapporteur: 9 cases out of 99, or 9 per cent).[a]

11. There were also a relatively small number of cases originating from academia and, in the case of religious minorities, from religious organizations or churches. National human rights institutions were completely absent from among the sources whose information the mandate holders could have acted upon.

12. In terms of the different types of replies, out of the 239 communications sent by the two mandate holders, 109 were not answered before the cut-off date. There were 118 substantive replies from Governments, varying in their content but addressing the human rights violations brought to their attention. Some included a very detailed description of the broader domestic legal environment and the laws relevant to the case, while others provided only technical details of the case without describing the broader context. Some were more substantive legally, while others provided more in terms of the technical, practical details of the case.

13. In 12 cases, the Special Rapporteur received only an acknowledgement of receipt, and in some cases reassurances that the concerns would be brought to the attention of relevant authorities of the country concerned. What is particularly worrying in these cases is that none of them were followed up by a substantive answer later on.

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[a] In the case of the mandate on Minority Issues, these included the European Roma Rights Centre; the Roma Virtual Network; Minority Rights Group International; and the International Dalit Solidarity Network (IDSN).

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Report of the Special Rapporteur on minority issues on her mission to Iraq

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on minority issues on her visit to Iraq from 27 February to 7 March 2016.

Minority ethnic and religious communities in Iraq, which have been an integral part of the population and cultural heritage of the country for millenniums, are facing an unprecedented crisis that threatens their continued existence in the country. Iraq is at a crossroads, and the actions of the Government now will determine the extent to which the country maintains its rich ethnic and religious diversity, or whether conflict and neglect of minority rights will contribute to depriving it of that diversity in the future. Seeking security and seeing few prospects for protection of their human rights in Iraq, many have left the country, resulting in a dramatic decrease in minority populations. Without urgent action, many thousands more may follow.

The genocidal terror campaign perpetrated by the so-called Islamic State in Iraq and the Levant (ISIL), also known as *Daesh*, has had a particular impact on regions with large minority populations, resulting in communities fleeing their homes and many thousands being killed or held captive, including women and children held in sexual slavery. Many remain captive and at risk of violence or death. Allegations of genocide against the Yazidi and possibly other ethnic and religious communities must be fully investigated. The Government and the international community must also act decisively and in accordance with their commitments under international law to protect civilians and to prosecute those suspected of such crimes.

The challenges include ensuring that vulnerable ethnic and religious groups can return to their historic homelands should they so desire, and providing long-term support to rebuild shattered lives and communities. The issues faced by minorities are long-standing

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and deeply entrenched in Iraqi society. The defeat of ISIL is only one important step among many needed to address the concerns of communities that are vulnerable to attack, subject to deeply entrenched discrimination and excluded from economic, political and social life. Trust in national authorities and hope for the future must be rebuilt on a foundation of consultation, participation and legal, policy and institutional frameworks for minority rights, which are currently absent.

Report of the Special Rapporteur on minority issues on her mission to Iraq*

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* Circulated in the language of submission and Arabic only.

I. Introduction

1. In accordance with the mandate under Human Rights Council resolution 25/5, the Special Rapporteur on minority issues, Rita Izsák-Ndiaye, visited Iraq from 27 February to 7 March 2016 at the invitation of the Government. During her visit, the Special Rapporteur travelled to Baghdad, Erbil and Dohuk governorates.

2. The Special Rapporteur sought to assess the situation of ethnic, religious and linguistic communities. She consulted widely with government representatives, including the Prime Minister, Haider al-Abadi, the Minister for Foreign Affairs, Ibraheem al Jafaari, the Prime Minister of the Kurdistan Region, Nechirvan Barzani, the Minister for Foreign Relations of the Kurdistan Region, Falah Mustafa, and other government leaders and senior politicians. She met with representatives of all religious departments at the Ministry of Endowments and Religious Affairs in the Kurdistan Region and the Chair of the Independent Board for Human Rights. She thanks the Government of Iraq and the Kurdistan Regional Government for their cooperation and willingness to engage constructively at the highest level.

3. The Special Rapporteur sincerely thanks the United Nations Assistance Mission for Iraq (UNAMI), the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations agencies and entities, including the Office of the United Nations High Commissioner for Refugees (UNHCR), that supported her visit. She thanks the numerous national and international non-governmental organizations that provided information and met with her. She placed a high priority on speaking directly to ethnic and religious community leaders and representatives, including those of internally displaced persons, to hear their views and concerns, and she thanks them for their considerable contribution to her visit.

4. The term "minority" is not favoured by the Government or many community leaders and civil society organizations, since it is perceived as having negative connotations for their status in Iraqi society and equal standing vis-à-vis other groups. Many prefer to be identified as "ethnic and religious communities" or "components" of Iraqi society. The Special Rapporteur acknowledges and respects these preferences, while noting that all the provisions of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities apply to those belonging to such groups in Iraq.

5. The Special Rapporteur's objective was to understand the historical, current and ongoing challenges facing diverse national, ethnic, religious and linguistic groups. She sought to understand current legal, policy and programme measures as well as to identify what measures should be taken by the Government and other national and international stakeholders to ensure their protection and to guarantee minority rights as contained in the Declaration.

II. Context of ethnic and religious minority communities

6. Referred to as the "cradle of civilization", Iraq has been a country of great diversity and a unique and rich mosaic of ethnic, religious, cultural and linguistic communities since ancient times. While the three largest populations are Shia and Sunni Arabs and Kurds, smaller communities include the Armenians, Baha'is, Chaldo-Assyrians, Circassians, Faili

Kurds, Jews, Kaka'e, Palestinians, Badawiyin (including the so-called Bidoon[1]), Sabea-Mandeans, Shabaks, Turkmen, Yazidis, Zoroastrians and Roma. Some groups have historically lived throughout Iraq, while minority groups, including Christians, Shabaks, Yazidis and Turkmen, live primarily in northern Iraq and areas south of and bordering the Kurdistan region of Iraq, including the Ninewa plains region. Large Christian communities have historically also been found in Baghdad and Basra.

7. Regions with large or predominantly minority communities have been heavily affected by the insurgency of the so-called Islamic State in Iraq and the Levant (ISIL), also known as *Daesh*. ISIL captured Mosul, the second-largest city in Iraq and historically home to many minorities, in June 2014 and took control of large swathes of territory in the governorates of Ninewa, Salah al-Din, Diyala, Kirkuk and Anbar. While all communities have suffered under the criminal brutality of ISIL, minorities have been particularly targeted as a consequence of its extreme doctrine and interpretation of Islam and its view of religious minorities as infidels or heretics. Hundreds of thousands of members of minority groups have been displaced or killed, and historic cities have been destroyed along with the cultural and religious sites that they were home to.

8. In their joint reports on the protection of civilians in the armed conflict in Iraq, OHCHR and UNAMI have documented violence against ethnic and religious groups. ISIL imposed on Christians and Sabea-Mandeans the choice of converting to Islam, paying *jezyah* (protection money), expulsion, or death; and for Yazidi, Kaka'e and other faith communities, conversion or death. According to a 2015 report, "ISIL continues to target members of different ethnic and religious communities, intentionally depriving them of their fundamental rights and subjecting them to a range of abuses under international human rights and humanitarian law. These acts appear to form part of a systematic and widespread policy that aims to suppress, permanently expel, or destroy many of these communities within ISIL areas of control."[2] The evidence and information gathered by UNAMI and OHCHR concerning gross abuses of human rights and violations of international humanitarian law support the conclusion that ISIL committed crimes in a systematic and widespread manner, targeting and seeking to destroy Yazidis in whole or in part. UNAMI-OHCHR noted that crimes committed by ISIL may amount to war crimes, crimes against humanity and, possibly, genocide. This remains subject to the determination of an independent and competent court.[3]

9. While the actions of ISIL constitute the most recent and brutal assault upon the existence of minorities, many diverse ethnic and religious groups have suffered from decades of marginalization, discrimination, lack of access to basic services and insecurity. It was emphasized by community representatives that their problems did not begin with ISIL and would not end with its defeat and return to their homes. Many described a reality of widespread and long-standing anti-minority sentiment that is deeply entrenched and would remain to be confronted in the post-ISIL era. The Special Rapporteur heard testimonies from persons who had lived peacefully alongside neighbours of different religions and who found themselves attacked by them or denounced to ISIL.

10. Under the Baathist regime of Saddam Hussein, discrimination and a campaign of persecution of ethnic and religious groups, including the Kurds, was pursued. The Anfal campaign waged from 1986 to 1989 targeted Kurds and other groups, resulting in the

[1] Bidoon is Arabic for "without", meaning people who are without identity documents. The term is applied to pastoralists who live in the desert areas between Iraq, Kuwait and Saudi Arabia. Many of them may identify as Badawiyin.

[2] See www.ohchr.org/Documents/Countries/IQ/UNAMIReport1May31October2015.pdf.

[3] Conclusion by UNAMI and OHCHR as well as of the OHCHR fact-finding mission (A/HRC/28/18).

destruction of hundreds of villages and the displacement, killing and disappearance of many thousands. The campaign included the chemical attack on Halabja on 16 March 1988, resulting in the deaths of at least 5,000 people, with a further 7,000 people injured or suffering long-term illness. Under an "Arabization" programme, minorities were expelled from their homes and regions. Some families were reportedly expelled from the country, while others were executed. Minority leaders highlighted that thousands remained missing. A denaturalization process deprived many of Iraqi citizenship, and some disputes over property and funds belonging to minority families have yet to be resolved. Despite steps taken by Governments following the overthrow of Saddam Hussein, some of the atrocities that were committed have still not been addressed owing to a lack of effective transitional justice measures and legal redress for the affected communities.

11. In addition, following the invasion of the country in 2003, led by the United States of America resulting in the overthrow of Saddam Hussein, targeted attacks against ethnic and religious communities again escalated and their position remained precarious, or even worsened, as sectarian violence dramatically increased. In 2006-2007, the violence peaked and led to the deaths of tens of thousands, while many thousands fled the country. According to UNHCR, some 30 per cent of the refugees fleeing Iraq belonged to ethnic or religious communities. The extent of the violence against them has perhaps overshadowed ongoing issues of discrimination, marginalization and exclusion that have left those communities among the poorest in Iraq.

12. Displaced from their homes and regions, sometimes multiple times, some communities now feel that they have little option but to look for a brighter future outside Iraq. Several community representatives stated that "there is no future for minorities in this country". While official figures are lacking, it is evident from national and international sources that the decline in numbers of some ethnic and religious communities since 2003 is dramatic. The Christian population has reportedly declined from 1.4 million people to just 300,000. If such trends continue, it is realistic to predict further significant declines and, possibly, the complete disappearance of some smaller communities from Iraq. Anecdotal evidence, including from interviews conducted in camps for internally displaced Yazidis, suggests that young people in particular are leaving the country in large numbers or may be planning to leave.

13. The Special Rapporteur notes that Shia and Sunni Arabs in some locations also find themselves under threat, displaced, or facing violations of their human rights; these communities must also be provided with protection. While they constitute the majority population groups at the national level, in some regions of Iraq, including the Kurdistan region, they are minorities, who are entitled to protection of their minority rights. ISIL members are predominantly Sunni Muslims; however, Sunnis who do not follow the group's ideology and extreme doctrine and oppose their crimes and human rights violations are equally at risk, and have been displaced or killed. Nevertheless, they are frequently viewed with suspicion, including by Shia and Kurdish authorities, and have faced discrimination, violence and barriers to their access to safety as well as to their freedom of movement.

14. It is of the upmost importance that a mapping exercise be conducted that would give a better understanding of the demographic composition of Iraq and the trends of displacement and migration, and to have a proper assessment of the socioeconomic conditions of the various ethnic and religious groups. This will enable targeted, necessary humanitarian, human rights and development programmes to be designed. Such mapping should be carried out with the involvement of minority community members.

III. Legal, institutional and policy framework

15. Iraq is a party to key international human rights conventions relevant to non-discrimination and the rights of minorities, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.

16. The 2005 Constitution, the pre-eminent and supreme law in Iraq, recognizes past crimes against minorities and contains anti-discrimination provisions. Article 14 states that Iraqis are equal before the law, without discrimination based on gender, race, ethnicity, nationality, origin, colour, religion, sect, belief or opinion, or economic or social status. Article 41 states that Iraqis are free in their commitment to their personal status according to their religions, sects, beliefs, or choices. Articles 42 and 43 guarantee freedom of thought, conscience and belief and that the followers of all religions are free to practise their religion and to manage their religious endowments (*awkaf*), affairs and institutions. Article 7 prohibits ethnic or religious hatred, including any entity or programme that adopts, incites, facilitates, glorifies, promotes, or justifies racism or terrorism or accusations of being an infidel (*takfir*) or ethnic cleansing.

17. Several minority leaders nevertheless highlighted that article 2 of the Constitution establishes Islam as a foundational source of law and that the Constitution prohibits the enactment of laws that contradict Islam. They stressed their concerns regarding widespread discrimination on the ground of religion and called for a more secular constitution and legal framework to clearly separate religion from politics, as there was potential for conflict between guarantees of the religious rights of minorities and the provisions of Islamic law.

18. Two draft laws under consideration by the Government are directly relevant to minority rights. A draft diversity protection and anti-discrimination bill has been endorsed by many Members of Parliament and advisers to the Speaker, Salim al-Jubouri. This bill was before the Human Rights Committee of the Council of Representatives at the time of the visit. In October 2016, it was submitted for first reading through the Speaker's Office. A complementary law, the draft law on the protection of religious and ethnic minority group rights, covers a range of issues related to the promotion, respect and protection of diverse ethnic and religious communities. Some groups have, however, expressed concern at the lack of consultation with them regarding these draft laws and the Special Rapporteur urges appropriate and meaningful mechanisms of consultation prior to their adoption.

19. Minority representatives highlighted article 125 of the Constitution guaranteeing the administrative, political, cultural and educational rights of the various nationalities, such as Turkmen, Chaldeans, Assyrians and all other constituents, which "shall be regulated by law". They noted, however, that such legal provisions did not exist and urged that they be adopted as a matter of urgency. Minority communities consider this step to be essential to legally protect them as valued and equal components of society.

20. Currently, there is no dedicated national institution or ministry with appropriate responsibilities and powers, funding and resources to help formulate policy and programme measures to address minority issues. Minority representatives called for such a body to be created and to have an interministerial coordination role, in recognition of the need for mainstreaming minority issues across policy areas. It should be in a position not only to advise and formulate necessary legislative changes but also to map the needs of minorities, monitor their situation, and serve as a bridge and trust-building platform between minority communities and the Government as well as other relevant bodies, including national human rights institutions and civil society organizations.

21. Minority representatives consistently stated that the National Identity Card Law adopted in October 2015 had caused alarm and consternation among communities owing to

its discriminatory provisions. Article 26 states that a non-Muslim may convert (while Muslims are prohibited from conversion) and that minors are legally considered as Muslim following the conversion of either parent to Islam. According to the law, any child born in a marriage between a Muslim and a non-Muslim shall take on the Muslim religion. The Law was reportedly intended to facilitate administrative formalities with governmental institutions; however, the discriminatory provisions are unrelated to this objective and discriminate against non-Muslims. Minorities consider this law to constitute a threat to their existence in Iraq and have called for its reform or repeal on the grounds of its discriminatory impact and incompatibility with constitutional guarantees of freedom of religion, thought, conscience and belief.

IV. Minorities in the Kurdistan region of Iraq

22. The Special Rapporteur travelled to the Kurdistan region of Iraq, which has been greatly affected by the rise of ISIL and the conflict on its borders. Its population has consequently increased dramatically owing to the influx of internally displaced persons from conflict-affected regions, including the Ninewa plains. She commends the Kurdistan Regional Government for supporting and providing a safe haven for displaced communities. The regional authorities emphasized their commitments to the protection of vulnerable groups while noting that its resources were stretched thin and its capacity to accommodate or support more internally displaced persons was severely limited. This may have serious implications in the light of the government offensive to retake Mosul and surrounding areas, ongoing at the time of drafting, which may lead to mass displacement, much of which may be towards the Kurdistan region.

23. Authorities noted the generally good relations between different ethnic and religious communities in the region and that few tensions had historically existed between communities, owing partly to a shared history of oppression under the former regime, which had destroyed Kurdish, Christian and some Muslim villages. Members of those ethnic and religious communities who were long-term residents of the region expressed satisfaction at minority rights protection, including their right to use their mother-tongue languages in education and a degree of political representation, and stated that they had good relations with the majority Kurdish community.

24. The drafting of a new Kurdistan Regional Constitution was initiated in 2011 and had not been finalized at the time of the visit. Prime Minister Barzani informed the Special Rapporteur that minority rights would be given specific constitutional protection and that consultation would take place with all groups. The authorities indicated that they were favourable to consideration of limited autonomous areas for large minorities, including Christians and Yazidi, where appropriate. Another positive step has been to recognize and allow representation within the Kurdistan Region Ministry for Endowments and Religious Affairs of smaller ethnic and religious groups, including Jews, Zoroastrians, Kaka'e and Baha'is.

25. The Kurdistan Parliament passed the Law on Protection of the Right of Components (Law No. 5) in 2015. Broadly in line with the provisions of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, it recognizes various ethnic and religious groups; guarantees equality; prohibits all forms of discrimination; and includes the right to political, cultural, social and economic participation and the right to education in mother-tongue languages. It prohibits demographic change of ethnic and religious communities. Although it is a positive development, the law lacks provisions that criminalize hate crimes and for a mechanism or body that would ensure implementation of the rights specifically protected by the Law.

26. Some communities, notably some Sunni Muslims, who constitute a minority in the region and who have also been deeply affected and displaced by ISIL, do not enjoy the same freedoms as other groups, including freedom of movement outside of internally displaced person camps and to urban areas. The Kurdistan Regional Government cites security grounds for limiting the movement of some groups who may be suspected of membership of ISIL and for conducting screening and detentions. Some displaced Sunni groups have allegedly been held between ISIL and Peshmerga forces and refused access to safety by the Kurdistan authorities. In 2016, in Ninewa Governorate, more than 520 people, including an estimated 250 children, were stranded for months between military front lines east of Sinjar mountain, unable to access food, water, shelter and medical assistance.[4] The Kurdistan authorities allowed them to move to safety only after six months.

27. The Kurdistan Regional Government, through the offensives of its Peshmerga forces, has gained extensive territories in the anti-ISIL campaign, including de facto control over parts of Kirkuk and its oil fields, which it considers to be part of the Kurdistan region. Some of these "disputed areas" are historically the homes of minority ethnic and religious communities, including Sinjar (Yazidis), Talafar (Turkmen) and the Ninewa plains (Christians, Shabaks and other minorities) and are contested by the Kurdistan Regional Government and the Federal Government. Minorities seek assurances for their return to, and increased autonomy over, these territories.

V. Challenges facing ethnic and religious communities

28. In this section, following comments by ethnic and religious community leaders that their voices and issues are rarely heard, the Special Rapporteur provides brief details about the situation of the ethnic and religious communities that she consulted. They include comments made by community representatives in meetings with her and information and figures that may not have been independently verified.

Baha'is

29. The number of members of the Baha'i faith remains unclear, owing to a lack of official data and factors including fear of publicly expressing their identity because of historic and widespread discrimination. They are thought to number fewer than 2,000 throughout Iraq. Many do not openly practise their faith owing to continuing discrimination and the legacy of past practices against them. The Baha'i were particularly oppressed by the Baath party regime from the early 1970s, when the religion was banned, adherents were forbidden from listing their religion in civil records, Baha'i property was confiscated and members of the community ultimately faced prison or execution.

30. Regulation 358 of 1975 prohibited the issuance of national identity cards to Baha'is. They were consequently denied registration of marriages or births, and thus were deprived of the right to have a passport and a job, enter university, and buy and sell homes and property. Baha'is continue to be denied full recognition in the Constitution of Iraq or national law. In April 2008, the Iraqi Ministry of Interior revoked the 1975 regulation; however, Baha'is continue to report difficulties in changing their identity cards to indicate their religion. Many reportedly still have "Muslim" on their identification documents.

[4] See www.humanitarianresponse.info/en/system/files/documents/files/hc_statement_on_civilians_trapped_in_iraq_and_in_desparate_need_of_humanitarian_assistance_february_2016.pdf.

Christians

31. The Christian communities in Iraq consist of Armenian Catholics and Orthodox Christians, members of the Assyrian Church of the East, Assyrian Orthodox Christians, Chaldean Catholics, Evangelicals, other Protestants, Syriac Catholics and Orthodox Christians, and other distinct religious groups that fall within the category of "Christian". Christian communities have historically been targeted because of their faith and their perceived ties with the West.[5] Following the 2003 invasion, attacks against Christian communities led to an exodus of Christians from the country. Christian representatives stated that the population had declined dramatically, from up to 1.4 million people prior to 2003 to only some 350,000 by 2014.

32. The population is thought to have declined further since mid-2014 with the rise of ISIL in areas of Christian populations, including the Ninewa plains. As places such as Mosul fell to ISIL, thousands of Christians fled. Those who remained or were unable to flee faced demands for the payment of protection money while others faced forced conversion or execution if they failed to comply with demands. Christian property was marked with an Arabic "N" (for *Nusairi*, the word used in the Koran to refer to Christians) and was later seized, and Christians were given an ultimatum to leave the city by 19 July 2014 or face execution.

33. While the Government emphasized the generally good relations between those of different faith communities, some Christian representatives noted their experiences of anti-Christian incidents and sentiments. A Christian priest from Mosul stated: "After 2005 I heard people say 'don't buy the properties of the minorities because they will be free later'. People are happy about what has happened to the Christians in Ninewa and Mosul." One Christian representative alleged receiving death threats and demands for protection money in Mosul even before the fall of the city.

Kaka'e

34. The Kaka'e are ethnically associated with the Kurds while maintaining a distinct religious identity. Representatives stated that they numbered some 200,000 people scattered throughout different regions, with most in Iraqi Kurdistan. They stated that they lacked political representation in both the Iraqi and the Kurdistan Parliaments. They were not referred to in the Iraqi Constitution or the Kurdistan Regional Constitution. However, Kurdistan Law No. 5 of 2015 protecting the rights of groups recognized the Kaka'e as a religious group. Representatives stated that Kaka'e had suffered historic persecution, including under the Saddam Hussein regime, with lands and villages confiscated and given to the Arab populations. People had to relocate to the south of Iraq, beginning to move back to their former regions only after the fall of Saddam Hussein.

35. Community representatives stated that some 300 Kaka'e had been killed by ISIL in Mosul and other areas because of their religious identity and that a large area normally occupied by Kaka'e was under the control of ISIL. All Kaka'e who formerly lived in Mosul and in the Ninewa plains had reportedly become internally displaced persons in Kurdistan. In March 2016, local sources reported that ISIL had made new threats to "pursue and kill" Kaka'e in northern Iraq.[6] Leaders stated that 65 of their villages had been destroyed and that Kaka'e internally displaced persons were scattered in different locations. One representative stated that the Kaka'e faced challenges to their identity in Iraq, with other communities "trying to make Kaka'e Shia".

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[5] Minority Rights Group International, *From Crisis to Catastrophe: The Situation of Minorities in Iraq*, 2014.

[6] See http://aranews.net/2016/03/isis-threatens-eliminate-kakai-religious-minority-iraq/.

Shabaks

36. The Shabak largely live in the Ninewa plains region and are thought to number between 200,000 and 500,000. While recognized as a distinct ethnic group in Iraq since 1952, Kurdish authorities consider them to be of Kurdish ethnicity. Representatives described a history of violations and atrocities under different regimes, most recently ISIL since 2014. Leaders stated that some 1,500 Shabaks had been killed between 2004 and 2014. According to non-governmental organizations, targeted violence against the community has continued since 2014. On 23 April 2014, a car bomb exploded in the Shabak village of Baybukh in Ninewa, killing 13 people and injuring 24 others. On 6 June 2014, at least 13 Shabaks were killed and more than 40 wounded when two car bombs were set off in Tahrawa village, near Mosul.[7]

37. Shabak properties in Mosul were marked with an Arabic "R" to signify "*Rafida*", a term ISIL used to designate Shia Muslims and others who have "rejected" its interpretation of Islam. Shabaks who refused to comply with ISIL orders were reportedly executed. By August 2014, an estimated 60 Shabak villages were under ISIL control, with reports of massacres and kidnappings of Shabak civilians. Leaders stated that 7,000 Shabak internally displaced families had fled Mosul following its fall. They expressed frustration that little attention was being paid to the suffering of the Shabaks. They stated that "random bombardment" against ISIL had left little to return to once their areas were liberated. They called for a separate autonomous area, and noted concerns that after the liberation of Mosul their situation might be even harsher. One representative of the Shabak stated: "As a Shabak, I don't feel like I am part of Iraq".

Sabea-Mandeans

38. The Sabea-Mandeans are one of the smallest religious communities in Iraq, with estimates suggesting fewer than 5,000 members; their language, culture and religion are thought to be at risk of extinction in Iraq. Some reports suggest that since the outbreak of violence in 2003, the majority of Sabea-Mandeans have left the country while an unspecified number have been killed. They have faced violence by both Shia and Sunni Islamic groups and continue to be actively targeted. Numerous attacks have taken place against community members, their property and places of worship, including targeted killings of individuals.

39. Sabea-Mandeans have fled ISIL-controlled areas and became internally displaced, since they are not considered by ISIL to be "People of the Book" and therefore do not have the option of paying protection money like the Christians. They fear that remaining in ISIL-controlled areas will mean either forced conversion or death. Many are thought to have left the country.

Turkmen

40. Turkmen constitute the third-largest ethnic group in Iraq, after Arabs and Kurds, with community representatives claiming a population of up to 2 million. They are comprised of both Sunni and Shia communities. They have historically lived in the north of Iraq, including in Tal Afar, Mosul, Erbil, Diyala and Kirkuk. Turkmen claim to have historically faced violence and intimidation from all sides, including the central Government, the Kurdistan Regional Government and Sunni and Shia militias. They noted historic denial of their cultural, linguistic and political rights and expressed fear for the future and the erosion of Turkmen culture and traditions.

[7] See http://minorityrights.org/minorities/shabak/.

41. Leaders stated that their areas were under threat from ISIL and claimed that they had not been adequately protected by Iraqi or Kurdistan authorities. Turkmen villages had been taken over, including in the Turkmen-majority area of Tal Afar in Ninewa Governorate. Turkmen had been killed and tens of thousands forced to flee their areas. Many Shia Turkmen had fled to southern governorates, including Najaf and Karbala. Sunni Turkmen were reportedly held at checkpoints as they sought safety in Erbil and other locations.

42. The majority Shia Turkmen town of Amerli in Salah al-Din Governorate was subject to siege by ISIL from 15 June until 31 August 2015, with frequent rocket attacks and attempts to take over the town. Little humanitarian assistance reached the community, which was left with little water, food, fuel or medical supplies. Dozens of civilians died before humanitarian aid reached the town. One leader alleged that Turkmen received less humanitarian assistance than had been provided to other groups and that rapes, killings and other violations had gone unaddressed and underreported. Community representatives expressed frustration because, although they frequently met United Nations representatives, nothing had changed and they were rarely mentioned in reports along with other minorities.

Yazidis

43. The vast majority of Yazidis, one of Iraq's oldest minorities thought to number up to 700,000 people, were concentrated in northern Iraq around the town of Sinjar. Leaders recalled that the community had suffered a history of persecution owing to perceptions of their faith, with numerous episodes of mass killing, including targeted attacks during sectarian violence following the 2003 invasion. They had suffered particularly when their regions were overrun by ISIL beginning in August 2014. Community leaders expressed frustration at the lack of action, support and protection by the Government and the international community since the attacks. "We lost our land, our women, our people. We don't see a bright future here," stated one. They said that 400,000 Yazidis had been displaced and were "trying to survive under the threat of extinction".

44. In August 2016, UNAMI-OHCHR reported unverified estimates that between 2,000 and 5,500 Yazidis had been killed by ISIL since 3 August 2014;[8] 6,396 Yazidis were reportedly abducted on or after 3 August 2014 (3,537 women and girls and 2,859 men and boys). By mid-May 2016, 2,587 Yazidi had reportedly managed to escape captivity (934 women, 325 men, 658 girls and 670 boys), while some 3,799 remained in captivity (1,935 women and 1,864 men). Tens of thousands of Yazidis continue to live in internally displaced person camps and other temporary shelters in the Kurdistan region of Iraq, including in the Khanke internally displaced person camps, which the Special Rapporteur visited. Some expressed their feeling that they had been abandoned.

45. Yazidis in internally displaced person camps in Dohuk described their distressing experiences of escaping from Sinjar in August 2014 as ISIL overran their region. They called for greater international action to free the captured women as well as national and international recognition that genocide had been committed against them (see below). Leaders criticized the Government for failing to denounce the atrocities and the Kurdish authorities for failing to protect them when they came under attack from ISIL. They highlighted the complete destruction by shelling, bombardments and street fighting of liberated Yazidi areas and expressed the view that in some cases the destruction could have been avoided.

46. Some representatives claimed that 100-200 Yazidis were leaving Iraq daily, with 100,000 having already left. Some spoke of having received no information about those who had left and fearing "the worst". Many had little hope for the future or for a return to

[8] See www.ohchr.org/Documents/Countries/IQ/UNAMIReport12Aug2016_en.pdf.

normal life in the Ninewa plains and Sinjar. One person stated: "80 per cent want to go abroad." Others voiced their desire for the community to return to their homes, while noting that a massive rebuilding effort was required. They stressed the importance of political participation and the need to ensure that Yazidis were represented and had guaranteed seats in the Iraqi Parliament and the Kurdistan Regional Government to ensure that they had a say in national policy and in decisions that affected them. Others called for self-rule, the establishment of a Sinjar governorate and an international protection force.

Zoroastrians

47. Zoroastrian representatives noted that they had coexisted peacefully with other ethnic and religious communities in the Kurdistan region of Iraq throughout their history. They highlighted their view that smaller ethnic and religious communities should be explicitly referenced and protected in the Constitution and the laws on the rights of minorities. They welcomed the fact that they had one political representative in the Kurdistan Regional Government. They described a smear campaign against their religion and stated that they had to practise their faith in secret. They noted that Zoroastrian archaeological sites had been destroyed.

Other ethnic groups

48. The Special Rapporteur learned about other ethnic or religious communities whose situation and issues are largely underreported owing to their numbers, their dispersal within the country and their lack of representation within civil society and human rights advocacy groups. They include the Badawiyin, including the Bidoon, Black Iraqis and Roma. She was disturbed by the lack of information about their circumstances. According to Minority Rights Group International,[9] Black Iraqis, who, community leaders suggest, may number from 1.5 to 2 million people (a figure disputed by the Government) located mainly in southern Iraq, frequently face systematic discrimination and marginalization in all aspects of life and are continually referred to as "slaves". Communities often referred to as "Roma" or as "Kawliyah"[10] are thought by some to number up to 200,000, living mostly in southern Iraq. They also reportedly face widespread discrimination and ostracism and suffer extreme poverty. The Special Rapporteur urges that greater attention be paid to the situations of these and other small communities, who may be particularly vulnerable, and that greater efforts be made to consult them and address their issues on an equal basis with other groups. The Government emphasized that there is no discrimination on the grounds of ethnicity or colour against members of such groups, who are equal in rights, opportunities and freedoms as citizens of Iraq.

A. Impact of internal displacement

49. At the time of the visit, some 3.3 million people were estimated to be internally displaced across Iraq.[11] Ethnic and religious communities have been disproportionately affected by internal displacement. Many vulnerable populations have sought refuge in the relative safety of the Kurdistan region and the border areas while others have travelled to the southern provinces or to Baghdad. Despite finding relative safety, many months after they fled, the situation for most internally displaced persons remains one of dependency on humanitarian aid, with only basic shelter and service provision. While some find temporary

[9] *From Crisis to Catastrophe*.

[10] While the connection to European Roma is not certain, the term "Kawliyah" has pejorative connotations in Iraq.

[11] International Organization for Migration, Displacement Tracking Matrix 46, May 2016.

work, employment opportunities are few. Internally displaced persons called for better service provision in camps and other locations, improved shelter and education facilities, and medical and more psychosocial support for those suffering trauma. One Yazidi stated: "We will lose a generation because of the lack of education."

50. While many have been granted free access to areas of safety such as the Kurdistan region, others have experienced restrictions on their freedom of movement and ability to access safety, often on the basis of their identity. Sunni internally displaced persons, who constitute a minority in some regions, including the Kurdistan region, have had particular difficulties owing to perceptions that they pose a security threat. Some community members have reportedly been detained on security grounds for long periods without trial, leading to family break-up.

51. While the Government's strong preference is for internally displaced persons to return to their places of origin, one interviewee stated: "We should decide our destinations and our fate. How can I live in my own place with people who think of me as an infidel?" The right of internally displaced persons to freely decide whether they wish to return must be respected, and they must be fully consulted. It was evident from interviews in internally displaced person camps that many no longer wish to return, or will do so only with guarantees of protection. Surveys conducted by the Global Protection Cluster and UNHCR in 2015 revealed that in central and southern Iraq only some 42 per cent of internally displaced persons intended to return to their area of origin, while some 35 per cent had not made a decision. When all governorates, including the Kurdistan region, were analysed collectively, the number of those intending to return dropped to only 22 per cent.[12]

52. In internally displaced person camps for Yazidi in the Dohuk region, non-governmental organizations noted that many young people were deciding to leave the country rather than stay in camps or return to devastated towns. For some, the trauma of their experiences made return difficult. Others felt that the destruction of their homes and the symbols of their identity in liberated cities such as Sinjar left them little to return to. For those who do not wish to return, measures must be taken to quickly move them from camps or temporary shelter into appropriate housing and to initiate livelihood projects as well as to ensure their religious and cultural rights. There is a need to establish durable solutions for internally displaced communities which, where return is not possible or desired, should include local integration or resettlement elsewhere in the country.

53. In view of the displacement crisis and its disproportionate impact on minorities, the Special Rapporteur also supports the adoption at the earliest opportunity of a law on internally displaced persons. It should explicitly recognize the rights of all ethnic and religious groups to equal protection and to durable solutions. Minorities also highlighted the need for a comprehensive national security strategy to be adopted, followed by security sector reform, to ensure long-term political and social stability in the country.

54. The situation of minority ethnic and religious communities displaced by conflict and violence prior to the rise of ISIL must not be forgotten or neglected. They include thousands displaced by Saddam Hussein under the "Arabization" campaign. The Internal Displacement Monitoring Centre notes that despite some government initiatives, few of those affected by long periods of displacement had sought assistance owing to factors including lack of the required documents, inability to afford fees and fear of retribution. It notes that reliable information on the population of persons who have suffered a protracted

[12] Global Protection Cluster and UNHCR, Iraq Internally Displaced Persons: Protection Monitoring Dashboard — Center and South, May-December 2015.

period of internal displacement in Iraq is scarce, and that monitoring is complicated by the fact that many are thought to have been displaced multiple times.[13]

B. Violations against minority women and girls

55. The Special Rapporteur met with numerous Yazidi women who had been kidnapped by ISIL when trying to escape from Sinjar, who provided harrowing testimonies. The women, including some very young women and children, described their capture and treatment by ISIL fighters. Some described being given to fighters who would subsequently sell them or offer them as "gifts" to other fighters. One described being raped and tortured before her escape. Some said that they were given drugs before being raped. "Everyone was trying to rape us," stated one woman. Some described being coerced to convert to Islam with the promise that they would not be hurt. "They put guns at our heads and told us that they would take our children away", stated one captured woman.

56. Women were bought and sold like slaves before being taken to other locations in Iraq and the Syrian Arab Republic. Their possessions, including telephones, were taken away from them. One woman stated: "They took our money, phones, gold and our daughters." Some women embroidered their telephone numbers on scraps of cloth in case they had the opportunity to call family members. Others showed crude tattoos that they had made on their arms stating the names of their family members so that if they were killed their bodies could be identified. One 9-year-old girl was disguised as a boy by her mother to prevent her from being raped. "There is nothing left that they haven't done to us," stated one woman. Everyone called for greater support, including psychosocial support, to be provided urgently.

57. Some women described their escape via "smugglers" who were paid large sums to facilitate their freedom, while others found opportunities to slip away from their captives on their own. Yazidi women who had escaped or been released by ISIL shared stories of starvation, humiliation, rape and sexual slavery that are deeply shocking. Captured women and girls are now being sold back and released by ISIL after large sums are paid to mediators and smugglers. At least 3,200 Yazidi and other women and children are reportedly still being held by ISIL,[14] and everything possible must be done to secure their release. Community leaders stated that they lacked funds to buy their freedom and expressed concerns regarding proposed military campaigns and their impact on the women and children who remained captive. One Yazidi leader stated: "There has been no action to save our girls. Why has the international community decided not to help the Yazidi people?"

58. Women described the trauma of their experiences and complained that the Government had not provided psychosocial care. Asked about their future, they commonly said, "We want to go somewhere safe." They expressed frustration that international visitors had come but that "nothing positive" had happened for them. One woman stated: "There is no work, nothing to live on. We were captives there, and we are captives here." Some added that, despite their traumatic experiences, they lived outside internally displaced person camps and did not receive humanitarian assistance. The trauma experienced by families and communities whose loved ones were or remain captives must also be

[13] See www.internal-displacement.org/middle-east-and-north-africa/iraq/2015/iraq-idps-caught-between-a-rock-and-a-hard-place-as-displacement-crisis-deepens.

[14] "They came to destroy": ISIS crimes against the Yazidis". Available from www.ohchr.org/EN/HRBodies/HRC/IoI/Syria/Pages/Documentation.aspx.

recognized and addressed to ensure that, in view of religious and cultural factors, women returning to their families and communities do not face stigmatization.

C. Destruction of cultural heritage

59. "Minorities fear that they will be wiped off the map of Iraq," stated one government representative. Destruction of cultural heritage has taken place on an unprecedented scale under ISIL, which has pursued a relentless programme of destruction of heritage and holy sites, places of worship, museums, libraries and historic archives. It has engaged in widespread looting of antiquities for sale on the international markets. The Director General of the United Nations Educational, Scientific and Cultural Organization denounced the destruction as constituting a strategy of cultural cleansing.[17] Rebuilding and restoring many damaged or destroyed cultural and religious buildings and sites will be an essential step towards recovery for many ethnic and religious communities.

60. While the destruction of specific cultural sites has been evident, the conflict itself has had a massive, destructive impact on whole cities and towns of deep historical, cultural and social significance to some ethnic or religious groups. One Yazidi community representative stated of Sinjar: "If liberation means total destruction, it means the end of our existence here. People are going to migrate. What is there to come back to?" This was a sentiment echoed by Shabak representatives and others, who conveyed a deep sense of loss of much more than mere buildings and infrastructure, but rather loss of their entire cultural and historical heritage.

D. Genocide: the case against the Islamic State in Iraq and the Levant

61. In its report to the Human Rights Council dated 27 March 2015, following its investigations, OHCHR reported on "reliable information about acts of violence perpetrated against civilians because of their affiliation or perceived affiliation to an ethnic or religious group". It concluded that "some of those incidents may constitute genocide. Other incidents may amount to crimes against humanity and war crimes. Ethnic and religious groups targeted by ISIL include Yazidis, Christians, Turkmen, Sabea-Mandeans, Kaka'e, Kurds and Shia" (see A/HRC/28/18, para. 16). Among the crimes that may have been committed by ISIL was "genocide by killing, causing serious bodily or mental harm and forced transfer of children, as part of a manifest pattern of similar conduct aimed at the destruction of a particular group. Information gathered strongly suggests that ISIL may have perpetrated these crimes against the Yazidi population" (*ibid.*, para. 76).

62. While further detailed investigation is required, information provided to the Special Rapporteur, including public videos and statements by ISIL itself, strongly supports allegations that the threshold required for a finding of genocide has been surpassed in the case of the Yazidis. The intention to destroy the Yazidi group in whole or in part can be inferred from the deliberate and systematic targeting of members of that community, including for execution or forced conversion. Investigations should continue into whether genocide, war crimes or crimes against humanity may also have been committed against other ethnic or religious communities who claim that atrocities were committed against them.

[17] See http://en.unesco.org/news/destruction-hatra-marks-turning-point-cultural-cleansing-underway-iraq-says-heads-unesco-and-1

63. The true number of those murdered by ISIL because of their ethnicity or religion remains unclear. The Special Rapporteur was informed about more than 20 alleged mass graves, many of which remain within territory controlled by ISIL. The Government and the international community must take all possible steps to protect and preserve these sites so that forensic research can be conducted at the earliest opportunity. This will allow victims to be identified and serve as essential evidence for future criminal proceedings.

64. Iraq has not yet acceded to the Rome Statute of the International Criminal Court, and the Special Rapporteur urges it to do so at the earliest opportunity. Iraq could request ad hoc jurisdiction over the claims of mass atrocity crimes. The Court should give consideration to opening preliminary investigations. In the meantime, the Court should initiate proceedings against those who are nationals of States that are parties to the Rome Statute. It is vital to maintain documentation and evidence must be protected from damage or destruction. The efforts of the Kurdistan Regional Government in this regard through the establishment of specialized committees are welcome and must be supported.

VI. Essential steps for rebuilding a future for ethnic and religious communities

A. Return and rehabilitation

65. The return of displaced ethnic and religious communities to their historic homelands and territories in a safe, voluntary and supported manner is an essential element of a guaranteed future in Iraq. These communities have deep and long-standing attachments to their homelands, established over generations. Any political, infrastructural, security, economic or other barriers to the safe and dignified return of communities to their home regions must be addressed so that return can take place at the earliest opportunity. The involuntary relocation or resettlement of such communities in alternative locations could constitute another setback to their continuing sense of belonging in Iraq and should be considered as a last resort for those who choose not to return to their home areas.

66. Return to their places of origin alone, however, does not constitute an appropriate and durable solution for these communities. That can be achieved only with long-term support, investment and development initiatives to assist communities to rebuild homes, infrastructure and cultural heritage sites, re-establish livelihoods and return to normal functioning following the trauma of displacement. Development initiatives by the Government and national and international development partners should be targeted at affected ethnic and minority communities.

67. Where communities have suffered violence, including by neighbouring communities, they will also require long-term and dedicated security and community reconciliation programmes. Voicing concerns over the lack of security, a member of the Yazidi community said: "Even if we return home, Arab villages are 3 km away. We feel vulnerable because when ISIL came our Arab neighbours joined them and attacked us. How can we change the mentality of the people who live near or with us?"

B. National reconciliation

68. Strengthening an inclusive sense of Iraqi national identity and confronting sectarianism are essential to future peace, stability and social cohesion, which has been fragmented by conflict and the historic marginalization of some groups. Some minority representatives, including the Yazidis, called for the strengthening of a national

reconciliation process in which minorities were fully included. Some minority representatives called for a ministry to be established with a mandate dedicated to ethnic and religious community issues that would take the lead in policy and programme measures, including affirmative action measures such as those aimed at increasing minority participation in political life.

69. Trust needs to be rebuilt between various communities, and between the population and the Federal Government, to ensure social cohesion and sustainable, peaceful coexistence. Representatives of numerous ethnic and religious groups expressed their deep frustration, anger and despair at their present situation. They frequently stated that they had lost all trust in national institutions and protection measures, which had failed them in the past and in which they had no confidence for the future. Their perception is that Government is not genuinely concerned about protecting their rights.

70. Minorities highlighted that lack of accountability increased the likelihood of further atrocities. For communities to recover and begin to regain trust in their Government and the rule of law, a process of truth, justice and reconciliation is required and legal remedies and reparations put in place, including restitution or reconstruction of property, compensation of victims, prosecution of those accused of crimes and psychosocial support for affected persons. In this regard, customary and traditional justice processes should also be considered alongside legal and court proceedings.

71. Education is a vital component in creating understanding and acceptance of diversity for the next generation. Minorities noted the absence of education on ethnic and religious diversity and of positive portrayals of minority communities. They stressed that education curriculums should be revised to provide education in citizenship and peaceful coexistence. Equally, human rights education would contribute to promoting acceptance and non-discrimination. Education and training must extend throughout Iraqi public institutions to ensure that public officials, the judiciary and the security forces are trained in human rights, including minority rights.

72. The establishment of an Iraqi security force that truly reflects the diversity of the society and includes members of all communities was frequently stressed as an important step forward, increasing trust in law enforcement in general and ending the trend of the formulation of militias along ethnic and religious lines. The draft national guard law currently under consideration should help if it conforms fully to international standards. The possibility of retaliation and retribution against some groups, including Sunni groups following the liberation or future liberation of territories such as Mosul, is a real threat. Everything possible must be done to ensure the protection of civilians in all circumstances and to ensure that the brutality of ISIL is not replicated by others, including ethnic- or religious-based popular mobilization forces.

C. Political, economic and social participation

73. Smaller ethnic and religious groups have very limited political means to express their will or concerns. Community representatives commonly stated that they lacked adequate political participation at all levels of public affairs, from local to national, and that current electoral laws made it difficult for minority ethnic groups to achieve political representation in proportion to their presence in society. They stressed that improved political participation was essential for them to raise their issues and concerns and as part of a longer-term social cohesion project. One representative stated: "To date, minorities are absent from decision-making." Another described efforts to block or remove Christians and other minorities from decision-making positions in Ninewa.

74. The national Parliament reserves only 8 of its 328 seats for minorities, and these are available only for some communities (Christians have 5 seats and Sabea-Mandeans, Shabaks and Yazidis have 1 seat each). Turkmen, the third-largest ethnic group in Iraq, do not have any reserved seats in the Iraqi Parliament. The Government noted, however, that Turkmen are well represented in political blocs in the Parliament and hold numerous government posts. Following the establishment of the Kurdistan Region and the adoption of the 2005 Constitution, which recognizes Iraq as a federal State, representatives of some minority groups, including Turkmen and Yazidis, called for greater political autonomy and control over their affairs in their regions as the only way to ensure protection of their rights.

75. Minorities have long faced discrimination and exclusion from certain labour markets, including employment in government and public sector posts. Such exclusion must be addressed, including through implementation of affirmative action policies where necessary, to ensure that Iraqi institutions better reflect the diversity within society. The Special Rapporteur stated her concern that the gains made by women in Iraq, including the participation of minority women, in recent decades was being deeply eroded by the current crisis and displacement of communities. The Special Rapporteur is especially worried about girls' access to education, which has reportedly decreased.

D. Disaggregated data

76. The question of the relative numerical size of some populations is politically sensitive in Iraq and has political and resource implications. It is nevertheless essential that accurate data be collected and recorded as soon as possible. Estimates suggest that the population may have doubled since the last full census was conducted in 1987.[16] The currently available data on population numbers of the different ethnic and religious communities are grossly inaccurate, owing to the events that have taken place since the last census. These events have led to large numbers of people relocating or leaving the country as well as civilian and combatant deaths numbering in the hundreds of thousands.[17] Consequently, the existing census data should not be relied upon, as they offer only a poor estimate of the size and location of minority communities in Iraq. While a new census is in the planning phase, it is unlikely to be held in the near future in the light of the ongoing crisis.

77. Before a full census becomes possible, it is of the upmost importance that comprehensive mapping take place to provide a better understanding of the demographic composition of the various regions of the country and the trends of displacement and migration, and to have a proper assessment of the socioeconomic conditions of the various groups. This will enable targeted humanitarian, human rights and development programmes to be designed. Such mapping could be carried out or monitored by an independent organization, with the full involvement of minority community members. Disaggregated data will help to ensure that ethnic and religious groups benefit from assistance and, where appropriate, affirmative action programmes.

[16] A partial census was conducted in 1997, which excluded the three Kurdish provinces of Dohuk, Erbil and Sulaimaniya.

[17] Some estimates put the total civilian death toll at more than 174,000, with the total number of violent deaths, including of combatants, at up to 242,000 since 2003. See Iraq Body Count, available from www.iraqbodycount.org.

VII. Conclusions and recommendations

A. Conclusions

78. Ethnic and religious communities are facing an unprecedented crisis that may threaten their continued existence in Iraq. Atrocities committed by ISIL since 2014, which have targeted minority groups in particular, constitute the most recent and brutal attack on those groups. The impact of violence and displacement on communities, including but not limited to the Yazidis, has been devastating. Overwhelming evidence supports claims of crimes against humanity, war crimes and genocide that must be fully investigated and appropriately addressed by the Government and the international community. Under these circumstances, deprived of homes, loved ones and livelihoods, community leaders and members feel despair and loss of hope in a future in Iraq. Many have left Iraq, feeling targeted, marginalized and unprotected and having lost trust in the authorities' capacity to protect their human rights. That hope and trust must be restored.

79. The challenges facing minorities did not begin with ISIL and will not end with its defeat alone. They go much deeper in Iraqi society, and solutions must therefore also be far reaching and confront long-standing issues of discrimination, exclusion and marginalization. There must be an intensification of efforts by the Government and real political and societal commitment to the preservation of all ethnic and religious communities and guarantees of their human rights and equality. To avoid a further exodus of minorities, such a commitment must also be delivered in practice through protection measures and legal, policy and institutional frameworks to ensure the human rights of all ethnic and religious communities, including their minority rights.

80. The primary responsibility for the protection of all its citizens lies with the Government of Iraq, which must do more and commit the necessary attention and resources. However, in the light of the economic crisis affecting Iraq and its commitment to combating ISIL, the donor community is also urged to continue and enhance its generous support to match the massive needs for humanitarian, stabilization and development assistance. All international partners should give greater consideration to the situations and needs of vulnerable ethnic and religious communities and, in full consultation with those communities, target assistance and recovery programmes specifically for them. These programmes must go beyond humanitarian aid to encompass projects to achieve sustainable solutions, development and community reconciliation, allowing minorities to live in safety and dignity.

81. The Special Rapporteur sought positive elements that offered hope for the future of minorities and social cohesion across communities. She heard about communities helping and supporting each other, and about an Iraqi society that had historically been able to recover even after atrocities had been committed. The forces of tolerance and understanding that have allowed diverse communities to live together for generations must now be cultivated once again as the bedrock of a future inclusive Iraqi society. Political and community leaders must lead efforts to achieve inter-community reconciliation. The views of all, including women and youth, must be heard and everyone must participate in shaping the future.

B. Recommendations

82. The Special Rapporteur recommends that the Federal Government and the Kurdistan Regional Government (where applicable) should:

(a) In close consultation with minority communities, establish a comprehensive legal and policy framework for the protection of minorities, including the adoption of a law that is in conformity with the binding international human rights law to which Iraq is a party and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;

(b) Establish an institutional framework dedicated to minorities, equality and diverse ethnic and religious groups, including the establishment of a ministry for ethnic and religious communities or equivalent body with an appropriate mandate, status, capacity and budget;

(c) Ensure that no law or policy, current or future, directly or indirectly discriminates against any person or group on the basis of their national, ethnic, religious or linguistic identity;

(d) Ensure the political participation of underrepresented communities, including minority women, at all levels. All ethnic and religious communities should have guaranteed, reserved seats in Parliament and local government structures;

(e) Undertake a population census at the earliest opportunity following the end of the conflict with ISIL and the return or resettlement of internally displaced and refugee communities;

(f) Ensure that internally displaced persons from ethnic or religious communities are treated in conformity with international standards, including the Guiding Principles on Internal Displacement. Solutions for internally displaced persons should be based on consultation and sensitive to their cultural and religious identities and community preferences;

(g) Ensure equality in access to humanitarian assistance for minority ethnic and religious communities affected by conflict that may be disproportionately impacted owing to targeted violence and discrimination;

(h) Ensure freedom of movement without discrimination, particularly for those seeking safety who may be at risk. Any restrictions or detentions on the grounds of security must be in accordance with the law and due process;

(i) Take essential measures to re-establish and build trust among minority communities so that they are considered equal citizens and components of Iraqi society, alongside all other ethnic and religious communities;

(j) Consider for some groups, in consultation with the affected communities, measures for local political and cultural autonomy over their territories and affairs in regions in which they constitute a majority or a significant percentage of the population;

(k) Establish overdue protection measures for ethnic and religious communities that remain at risk of violence either in their places of origin or in displacement locations, in close consultation with community members;

(l) Ensure representation of minorities in security forces, particularly in areas of high and historic minority presence, as well as appropriate training of all security forces in issues related to minorities;

(m) include atrocity crimes in national legislation, and record and investigate, to the fullest extent possible, all crimes committed against ethnic and religious communities, including war crimes, crimes against humanity, ethnic cleansing and possible acts of genocide. Evidence, including mass graves, must be protected;

(n) **Accede to the Rome Statute of the International Criminal Court and grant domestic jurisdiction over any of the crimes enumerated in the preceding paragraph that may have been committed in Iraq;**

(o) **Use all means available to ensure that Yazidis and others who were held captive by ISIL are rescued and receive medical and psychosocial care appropriate to their needs;**

(p) **Implement a strategy to support, with appropriate budgets, the return to places of origin in a voluntary, secure and dignified manner and with appropriate support and assistance, including for those who have suffered violence from neighbouring communities;**

(q) **Respect the freedom to choose not to return to places of origin because of security or other factors and provide alternative durable solutions, including local integration or supported resettlement;**

(r) **Ensure that all victims of the most serious crimes and displacement receive reparations, and begin a programme for the reconstruction of homes and infrastructure in minority villages, towns and other locations, in close consultation with affected communities;**

(s) **Rebuild and restore damaged or destroyed cultural and religious buildings, places of worship and other significant cultural sites;**

(t) **Ensure that the activities of ethnically or religiously affiliated popular mobilization units are in accordance with international humanitarian and human rights law and standards, including their treatment of all ethnic and religious communities with which they may interact, and that their command and control fall under the authority of the Government of Iraq and its security forces;**

(u) **Ensure that minorities are fully involved in peacebuilding and transitional justice processes aimed at creating stability and avoiding future crises;**

(v) **Impose no undue restrictions on the return of communities to disputed regions;**

(w) **Intensify efforts to promote national reconciliation to build trust and bridges between communities, and ensure that minorities are fully included in such efforts; in this regard, implement curriculum reform to mainstream tolerance and human rights principles;**

(x) **Strengthen the role and capacity of national human rights institutions and civil society to work on minority issues and in support of minority communities.**

83. **The Special Rapporteur recommends that the international community should:**

(a) **Fully investigate allegations of genocide, war crimes or crimes against humanity perpetrated against the Yazidis and, potentially, other ethnic and religious communities, and act in accordance with commitments under international humanitarian and human rights law to protect civilians and prosecute anyone suspected of such crimes;**

(b) **Undertake all possible measures to secure the release of those persons, including women and children, who remain captives of ISIL and at risk of violence or death;**

(c) **Maintain and enhance essential humanitarian and development funding, assistance and support for communities and regions affected by conflict while ensuring equal access to assistance for all affected populations;**

(d) **Step up the engagement of development partners to assist in transition from the emergency response phase to recovery and reconstruction, including activities aimed at reconciliation and social cohesion, compensation and restorative justice measures, and ensuring durable solutions for minority ethnic and religious communities.**

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Report of the Special Rapporteur on minority issues on her mission to the Republic of Moldova

Note by the Secretariat

The Special Rapporteur on minority issues, Rita Izsák-Ndiaye, conducted an official visit to the Republic of Moldova from 20 to 29 June 2016.

The Republic of Moldova is a multi-ethnic, multireligious and multicultural society with a considerable legal framework for the protection of minority rights; nevertheless, the lack of institutional attention and dedicated budget provisions, compounded by the recent economic crisis, remain major obstacles for its proper implementation.

The Special Rapporteur observed that language issues, especially in the context of education, featured prominently in the consultations held. The use of mother tongue is highly important and emotive for many communities and an essential aspect of personal and community identity. Concerns regarding poor quality of State language education in minority language schools were universally voiced.

Consultations with religious minorities showed that in most of the country peaceful interreligious relations prevail, although some incidents of racial profiling and religious motivated attacks against Muslim and Jewish communities were reported. It was further noted that the media does not seem to reflect the diversity inherent to the country and in some instances propagates negative and demeaning stereotypes about some minority groups, in particular Muslim and Roma communities.

Roma communities continue to experience entrenched economic, social and political marginalization and are often victims of discrimination, particularly when gaining access to the labour market, education and health-care services.

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Report of the Special Rapporteur on minority issues on her mission to the Republic of Moldova*

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* Circulated in the language of submission and Russian only.

I. Introduction

1. The Special Rapporteur on minority issues conducted an official visit to the Republic of Moldova from 20 to 29 June 2016, at the invitation of the Government. She visited Chisinau and various regions and localities with minority populations, including the Autonomous Territorial Unit of Gagauzia, Balti, Chetrosu, Edinet, Hincauti, Orhei, Otaci, Schinoasa, Soroca, Taraclia, and the Transnistrian region of the Republic of Moldova. She consulted widely with hundreds of stakeholders, including ministers and senior government officials of the Ministries of Foreign Affairs, Education, Justice, Labour and Social Protection, and Culture, the Deputy Bashkan of Gagauzia and the de facto authorities of the Transnistrian region of the Republic of Moldova. She met with representatives of the Bureau of Inter-Ethnic Relations, the Equality Council, the People's Advocate Office, the General Prosecutor's Office, the National Bureau of Statistics and the Constitutional Court. She consulted with representatives of civil society and minority communities, religious leaders, political actors, members of the diplomatic community, representatives of United Nations bodies and other national and international actors.

2. The Special Rapporteur met with representatives of various ethnic communities, including those who identify as Armenians, Azeris, Belarusians, Bulgarians, Gagauzis, Germans, Georgians, Turkish, Poles, Roma, Romanians, Russians and Ukrainians. She consulted with members and representatives from religious communities, including Adventists, Baptists, Catholics, Jews, members of the Bessarabian Metropolitan Church, Falun Dafa and the Unification Church. She also consulted with comparatively new communities, such as Afro-descendants and Muslims. She also met with many who identify clearly as Moldovan majority and with Moldovan Orthodox Church leaders to seek their views. She thanks the Government for their openness and frank discussions and all of those who consulted with her and provided valuable information.

3. Lack or limited financial resources to implement measures relating to minority rights featured almost universally when consulting with interlocutors from the central Government, local authorities and minority representatives. Despite important steps in poverty reduction, with a significant drop in the national poverty rate from 68 per cent in 2000 to 11.4 per cent in 2014,[1] the Republic of Moldova remains one of the poorest countries in Europe, ranking 107 out of 188 countries in the Human Development Index.[2] High rates of labour-related emigration,[3] mainly to neighbouring countries, have resulted in the loss of young and skilled workers, and numerous testimonies received during the visit indicated that minority young people may be particularly affected by migration.

4. Worsening economic conditions and corruption scandals have led to grievances and a general distrust in politicians and political structures. It is essential to consider the economic dimension of the current situation and for the Government to implement measures to guarantee equality and social, economic and cultural rights and to combat

[1] See World Bank Group, "Moldova Poverty Assessment 2016, Poverty Reduction and Shared Prosperity in Moldova: Progress and Prospects" (2016), p. x. Available from http://documents.worldbank.org/curated/en/168451467995808859/pdf/105722-WP-P151472-PUBLIC-Moldova-Poverty-Assessment-2016.pdf.

[2] United Nations Development Programme (UNDP), *Human Development Report 2015* (New York, 2015).

[3] See World Bank Group, "From Aspirations to Occupations: The Role of Information in Educational and Labor Market Decisions in Moldova" (2016), p. 7. Available from http://documents.worldbank.org/curated/en/508751468195577069/pdf/106494-WP-P152911-PUBLIC-From-Aspirations-to-Occupations.pdf.

corruption and the mismanagement of resources as a means of increasing trust in political leadership. The Special Rapporteur notes that, while economic constraints may have an impact on availability of resources, this should not be used as a justification for a lack of funding allocation, including for measures to ensure minority rights.

5. While recognizing that each State can decide how to implement minority rights in practice, the Special Rapporteur stresses that realizing the rights of minorities is not only an essential means to prevent tensions from emerging but also an instrumental element of good governance and conflict prevention. Moreover, the progressive implementation of economic, social and cultural rights is a positive and undebatable State obligation under international human rights law, and hence any regression on those rights will amount to a violation of the law. These are compelling reasons to make minority rights protection and promotion a robust part of the human rights agenda of the Government.

6. The results of a census conducted in 2014 have yet to be made public. Data from the 2004 census[4] refers to the ethnic composition of the Republic of Moldova as 75.8 per cent Moldovan; 8.4 per cent Ukrainian; 5.9 per cent Russian; 4.4 per cent Gagauz; 2.2 per cent Romanian and 1.9 per cent Bulgarian, with other nationalities accounting for less than 1 per cent of the population. In terms of religious affiliation, 93.3 per cent belong to the Moldovan Orthodox Church, while minority religious groups include Baptists (1 per cent), Seventh-day Adventists (0.4 per cent), Pentecostals (0.3 per cent), Old Rite Christians (0.15 per cent), Evangelical Christians (0.15 per cent) and others (1.1 per cent). Of the total number of the census respondents, 1.4 per cent declared themselves to be atheists or non-religious.

7. The Special Rapporteur met with representatives of the National Bureau of Statistics, who informed her that 30 per cent of the data of the 2014 census had already been processed and the full results of the 2014 census were expected to be made public in March 2017. She welcomes the fact that the 2014 census had given individuals the opportunity to self-identify and express multiple identities and that the final results would provide data disaggregated inter alia by gender, ethnicity, language and religious affiliation. She emphasizes the importance of disaggregated data to reveal the status of minorities in relation to other groups and enable legislators and policymakers to establish targeted programmes for them on the basis of their minority status, socioeconomic indicators, gender and other characteristics. She stresses that no undue delays should prevent such important data from being made available publicly as, in the absence of such data, there might be speculation and manipulation relating to the size of certain groups.

8. The Republic of Moldova has historically been a multi-ethnic, multireligious and multicultural society. The individual identities of persons belonging to minorities are often complex and dynamic. Minority identities are multilayered when ethnic minorities belong to another linguistic minority group. Many minority persons have multiple identities also owing to mixed marriages. In some instances, minority groups not only present specific characteristics but often have divisions and fractures within communities, with differing views and concerns voiced by particular sub-groups or segments of communities.

9. The majority of those minority and other representatives consulted in all locations visited described a situation of generally peaceful inter-ethnic and interfaith relations while acknowledging the existence of divisions of groups along ethnic, religious and linguistic lines. Violence, intimidation or aggression on the basis of national, ethnic, linguistic or religious identity of minorities are rare. However, some communities and their members

[4] See National Bureau of Statistics, 2004 Population Census, available from www.statistica.md/pageview.php?l=en&idc=263&id=2208.

noted experiences of discrimination in some spheres of life, and many groups reported experiencing specific instances of stigmatization against them.

10. It is clear that managing such diversity can be complex and challenging. The Special Rapporteur is of the view that the diversity of the Republic of Moldova needs to be valued and promoted as an important asset and strength of the country, and in that regard concurs with the assessment made by the Special Rapporteur on freedom of religion or belief following his visit to the country in 2011.[3] She welcomes the decision by the Government to adopt Holocaust Remembrance Day on 27 January as an official day to commemorate the victims of the Holocaust, and the existence of regular festivals, celebrations and dedicated days organized to appreciate the culture, language, literature or folklore of the various ethnic communities. She considers that, while such measures bear an important symbolic significance, a minority-rights perspective needs to be strengthened considerably in the design and implementation of policies and measures. The legislative and police framework should allow for the recognition of the diversity inherent in the Republic of Moldova and should inform the formulation of cross-integration policies.

II. Methodology

11. The Special Rapporteur's analysis of the Republic of Moldova is based on the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and other relevant international standards, from which she has identified four areas of concern: (a) the protection of a minority's survival, through combating violence against them and preventing genocide; (b) the protection and promotion of the cultural identity of minority groups and the right to enjoy their collective identity and to reject forced assimilation; (c) the guarantee of the rights to non-discrimination and equality, including ending structural or systemic discrimination and the promotion of affirmative action when required; and (d) the guarantee of the right to effective participation of minorities in public life, especially with regard to decisions that affect them. She applies a gender perspective in all the areas of her work.

12. The Special Rapporteur notes with concern that the term "minority" was regarded as "derogative" and "discriminatory" by some interlocutors with whom she consulted during her visit. She highlights that there is no internationally agreed legal definition of the term "minority" and that, in the absence of a formal definition, the existence of a minority group can be assessed using objective and subjective criteria elaborated by United Nations independent experts from international standards.[4] Objective criteria include shared characteristics of the group, such as ethnicity, national origin, culture, language or religion. Subjective criteria focus on the principle of self-identification and the desire to preserve the group identity. Furthermore, she notes that the protection of minorities entitles persons belonging to such groups to specific rights, imposing on States concrete obligations to ensure the survival and continued development of the cultural, religious and social identity of the minorities.[5]

13. The Special Rapporteur focuses her work on national, ethnic, religious and linguistic groups, whose generally non-dominant, disadvantaged positions within society require

[3] See A/HRC/19/60/Add.2, paras. 31, 43 and 63.

[4] See, inter alia, Human Rights Committee general comment No. 23 on the rights of minorities, and the commentary of the Working Group on Minorities to the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, E/CN.4/Sub.2/AC.5/2005/2.

[5] See Human Rights Committee general comment No. 23, para. 9.

measures to allow them to exercise all their rights, including minority rights, to the fullest. She acknowledges that the notions of "majority" and "minority" may be changeable and dependable on the particular context, as a group that may constitute a dominant majority nationally or regionally may be numerically inferior and non-dominant in another region. Therefore, minority rights standards must also be applied to those constituting de facto minorities in the localities where they live.

III. Minority rights: legal and institutional framework

14. The Republic of Moldova is a State party to the core international human rights treaties that are most relevant to minority rights, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. The Republic of Moldova is a member of the Council of Europe and has been a State party to Framework Convention for the Protection of National Minorities since 1996. It has signed but not yet ratified the European Charter for Regional or Minority Languages. Article 4.2 of the Moldovan Constitution requires that priority be given to international law in situations of conflict or in case of inconsistency between national and international provisions of human rights.

15. The Constitution establishes the principle of equality and non-discrimination, including on the grounds of race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, property or social origin (art. 16.2). It also contains provisions on the rights of all citizens to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity (art. 10.2).

16. Article 13.1 establishes that the State language is Moldovan, but the State shall acknowledge and protect the right to the preservation, development and use of "the Russian language and other languages spoken within the territory of the State (art. 13.2). Law No. 1465 on the functioning of the languages spoken in the territory of the Republic of Moldova (1990) recognizes in its article 3 that the State language in Latin alphabet is the only official language and that Russian is the language of inter-ethnic communication. Article 4 of the Law guarantees the use of Ukrainian, Russian, Bulgarian, Hebrew, Yiddish, Romani languages and languages of other ethnic groups living on the territory of the Republic of Moldova, for satisfaction of national-cultural needs.

17. Law No. 382-XV on the rights of persons belonging to national minorities and the legal status of their organizations was adopted in 2001. It defines national minorities as persons who reside on the territory of the Republic of Moldova, have Moldovan citizenship, possess ethnical, cultural and linguistic features that differ from the majority of the population (Moldovans) and consider themselves to be of a different ethnical origin (art. 1). Law No. 382-XV contains relevant provisions with respect to minority rights, including the principle of equality and non-discrimination for persons belonging to national minorities (art. 4); the right to education in Moldovan and Russian and the creation of conditions for mother-tongue education for other groups, including Ukrainians, Gagauz, Bulgarians and Jews (art. 6); the obligation of local administrations with considerable minority groups to publish administrative acts in the language of minorities (art. 8); the right of persons belonging to national minorities to communicate with public institutions in Moldovan and Russian and to obtain a response in the same language of communication (art. 12); the right to freedom of religion of minorities (art. 14); the right to use their names, last names and patronymics in official documents (art. 16); and the appointment of the Department of Inter-Ethnic Relations as the agency responsible for the promotion of the State policy in the field of inter-ethnic relations and the Coordination Council as its advisory body (art. 25).

18. The Bureau of Inter-Ethnic Relations, created in 1991, is the responsible body for the coordination of the policy of the Government on national minorities. Representatives of the Bureau highlighted the need for its institutional strengthening to adequately fulfil its important mandate and noted that, in the past, when the institution held the status of government department, it used to cover a broader portfolio, including religious minority groups and diaspora communities. In particular, it was noted that the institution was understaffed and lacked sufficient funding.

19. In recent years, the Republic of Moldova has taken important steps towards enhancing the protection and promotion of the rights of minorities through the enactment of relevant laws, the establishment of plans and the creation of ad hoc institutions. In 2012, the Law No. 121 on ensuring equality was enacted. It provides a comprehensive framework to combat discrimination and, in 2013, it guided the creation of a specialized body, the Council on the Prevention and Elimination of Discrimination and Ensuring Equality (the "Equality Council").

20. The Special Rapporteur was informed that, although the Equality Council did not have a specific mandate on minority issues, as a specialized body mandated to combat discrimination it played an instrumental role in protecting the rights of persons belonging to minorities. Nevertheless, its representatives noted that the body had not been granted the power to carry out some specific functions that would be necessary to fully perform their duties, including effective sanctioning powers, the possibility of conducting investigation of cases in the field and the ability to address cases to the Constitutional Court. Its representatives further noted the insufficient allocation of resources to the institution, which may result in significant constraints to effectively exercise its functions, and the need for support with regard to translation services. They expressed concern regarding the premises where the Council is located, and the inadequate conditions of the current office in terms of safety, health and accessibility.

21. Following the expiration of the National Human Rights Action Plan 2011-2014, at the time of writing a new Human Rights Plan 2017-2020 was being conceived and was expected to be finalized early in 2017. The Special Rapporteur was informed that a supervisory body to monitor the implementation of the new Plan had been proposed. While welcoming the Plan, the Special Rapporteur highlights the need for sufficient funding to be allocated for its proper implementation and for minority rights to be reflected as an essential component of it.

22. The Roma Action Plan 2016-2020 was adopted in April 2016, following the expiration of the Roma Action Plan 2011-2015. Many stakeholders consulted stated that, despite the fact that the Roma Action Plan had been a positive development for the protection and promotion of Roma rights, the decentralization reform, which had placed the responsibility of implementing a large number of measures in the hands of local administrations, and the lack of sufficient funding, among other factors, had resulted in the Plan being poorly implemented, monitored and assessed. Concerns were expressed that, given the lack of budget provision, the current Plan would face similar challenges. The Human Rights Committee, in its concluding observations, explicitly recommended that sufficient human and financial resources be allocated to effectively implement the new Roma Action Plan 2016-2020.[9]

23. In the Action Programme of the Republic of Moldova for 2016-2018, an entire chapter and several provisions are devoted to national minorities, including the elaboration and implementation of a strategy for the consolidation of inter-ethnic relations for the period 2017-2027. The Special Rapporteur was informed that, at the time of her visit, the

[9] See CCPR/C/MDA/CO/3, para. 12 (b).

strategy was still pending adoption. She welcomes the initiative and recommends that the strategy comply fully with the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Moreover, she was informed that a national cultural development strategy entitled "Culture-2020" had been approved to preserve cultural diversity and protect the cultural and ethnic identity of national minorities.

24. The Special Rapporteur notes that there is a generally conducive legal and institutional framework on minority rights in the Republic of Moldova. She observed however that the fragmentation of the existing framework and the lack of adequate budgetary provisions for the implementation of the relevant policies and action plans constitute important obstacles for the proper realization of minority rights protection.

IV. Specific areas of concern regarding linguistic rights

A. Education

25. Language issues, especially in the context of education, featured prominently in the consultations held. It was evident that the use of one's mother tongue is highly important and emotive for many communities and is an essential aspect of personal and community identity. As stated by a minority representative, "if you lose your language, you lose your identity". Minority groups with whom the Special Rapporteur met clearly expressed their desire to maintain and protect their language rights and their ability to use their mother tongue. Russian is spoken by a sizeable population in the Republic of Moldova, including by many minority groups, who claimed that they should be allowed to use it freely in private and public without discrimination.

26. The Special Rapporteur was informed about three modalities of minority language schools: (a) those where Russian is the language of instruction, traditionally attended by national minorities; (b) those where Russian is the language of instruction and Ukrainian, Gagauz and Bulgarian are taught as subjects three times per week, and where the history, culture and traditions of Russians, Ukraininans, Gagauz and Bulgarians is also taught once per week; and (c) experimental gymnasiums and lyceums/high schools where primary and secondary education is conducted in Ukrainian or Bulgarian as mother-tongue education.

27. Persons belonging to minority groups, including Bulgarians, Gagauzians, Russians and Ukrainians, expressed their desire to receive education in their mother tongue in schools and their deep concern that the provisions in the 2014 Education Code guarantee the State language only as the language of instruction, raising fears that education in minority languages would be eventually subjected to the availability of financial resources. In Balti, Russian-speaking minority representatives regretted deeply the fact that the new Education Code could result in Russian losing its mandatory status as a subject in State language schools.

28. Some interlocutors pointed out that the process of the school optimization reform was further impacting on their right to receive mother-tongue education, given the requirement for a specific number of students to maintain minority language instruction. Some referred to the optimization reform as having a disproportionate impact on Russian language schools as many of them were being closed down.

29. The Special Rapporteur also learned that the school optimization reform was affecting schools that offered instruction in the State language, such as the Otaci lyceum, where the State language classes were going to be discontinued owing to the fact that the minimum number of students required to maintain the classes, 15, had not been met.

Affected students and parents expressed their profound regret with the decision, which would entail having to travel around 30 kilometres to the nearest State language school.

30. In Gagauzia, the Special Rapporteur was informed that, although education is mainly conducted in Russian, Gagauzian is a mandatory subject in the school curriculum and the 2016 Law on Gagauzian Language and Education adopted by the Gagauzian's Peoples Assembly aims at expanding the scope of Gagauzian to be the language of instruction for some curricular subjects. The Special Rapporteur welcomes the first pilot projects on bilingual education in Gagauzia and stresses that bilingual and multilingual education could be a long-term solution to guarantee the right to mother-tongue education while ensuring the learning of the State language.

31. The importance of learning and having a good command of the State language was universally stated by all the minority representatives consulted. Many interlocutors expressed concerns that the education of the State language provided in minority-language schools was of low quality and that the teachers in charge of the subject did not have the desired qualifications to provide high-quality language instruction. They further emphasized the negative consequences of poor fluency in the State language, including difficulties in gaining access to university education — as the lyceum graduation examination had a specific exam on State language command — and to the labour market, and the limitation of opportunities in the public administration, as proficiency in the State language was required to hold public positions.

32. The Special Rapporteur received several complaints from various interlocutors with regard to the competition for employment of heads of school administration, which is administered in the State language, although this requisite was waived in Gagauzia, where applicants were allowed to take the exam in Russian.

33. Representatives of the Ministry of Education stressed that mother-tongue education was a priority and, while noting the adoption of a plan to improve the quality of State language teachers for minorities, acknowledged the difficulty to implement it given financial constraints.

B. Public administration

34. Other language issues that featured strongly during the visit included the possibility to use Russian when addressing the public administration. Many interlocutors complained of instances in which their written submissions in Russian, including to courts, were either answered in the State language or directly rejected. In fact, representatives of the Equality Council noted that, out of the over 100 decisions issued by the Council to date that found discrimination, more than 10 cases referred to a violation of linguistic rights, mainly the refusal by courts to accept complaints submitted in Russian.

35. Some interlocutors pointed out that certain government websites were not available in Russian, including the Ministries of Culture and the Interior, and the Police, among other agencies.

36. The Special Rapporteur heard complaints by some governmental officials with respect to the cost of the translation of documents into minority languages, which was, in some instances, regarded as a "burden". She would like to recall her 2012 thematic study on the rights of linguistic minorities, in which she noted that the ability of minorities to engage institutions and administrative bodies in minority languages ensured their ability to express their views, participate in consultative process and influence national policy that affects

them and the regions where they live.[9] Furthermore, she emphasized that there are numerous cost-effective methods to fulfil language rights, including translation of key information, web-based resources targeted at minorities and policies of promoting training of minorities and their recruitment at the national and local levels in public institutions.[10]

C. Names and denominations

37. As a result of some amendments to the Law on the Identity Documents and the National Passport System, the Special Rapporteur was informed that the current system for the registration of names and surnames was permitted in the State language and in Latin script only, therefore having an adverse impact on some minority languages. For instance, as the Gagauz alphabet contains some letters that are pronounced differently from the State language, name registration often results in misspelling and/or mispronunciation of Gagauzian names and surnames. Furthermore, some Russian-speaking minority members stated that it was no longer possible for individuals to insert their patronymic name — which is part of the Russian cultural tradition — in their identity card.

D. Health care

38. Some interlocutors pointed to linguistic issues in the area of health care. For instance, in Gagauzia the Special Rapporteur was informed that medicine leaflets were only available in the State language. She was also made aware of the current administrative territorial reorganization process, according to which the emergency care call centre in Comrat would be moved to Cahul, outside the Autonomous Territorial Unit of Gagauzia. Concerns were expressed that such a move might pose a health risk, as a call centre outside Gagauzia would not be able to process telephone calls made in Gagauz, as they are at present.

V. Religious minorities

39. The Republic of Moldova is home to a wide range of religions and belief groups, and the rights of religious minorities seem to be to a large extent respected. Most of the religious representatives consulted indicated that there was a peaceful coexistence among religious groups, although they admitted that there was a lack of mutual knowledge and exchange among them.[11]

40. Concerns were expressed about the dominance of the Moldovan Orthodox Church and its influence in determining societal morals and values. Some interlocutors regretted the fact that, although the Moldovan Constitution enshrines in its article 31 a secular State, the Orthodox Church appears to be given preferential treatment, including through tax exemptions and donations of public property to build temples. It was noted that the explicit acknowledgement in the 2007 Law on Freedom of Conscience, Thought and Belief of the

[9] See A/HRC/22/49, para. 57.

[10] Ibid., para. 77.

[11] The Special Rapporteur was informed of a project called "Sources of Tolerance" organized by the Diversitate Centre for Informal Education and some partners, consisting of an annual inter-ethnic summer camp that brings together young people from various minority communities with the aim of fostering inter-group tolerance and knowledge about the ethnic and religious diversity of the Republic of Moldova. She welcomes the initiative as an example of good practice and stresses the need for such measures in the Moldovan context.

"special importance and leading role of the Orthodox Christian religion and, respectively, of the Moldovan Orthodox Church in the life, history and culture of the Republic of Moldova" (art. 15.5), was seen as justifying a privileged treatment of the Moldovan Orthodox Church over other religious groups.[12]

41. Some interlocutors further criticized the political interference by the representatives of the Moldovan Orthodox Church and recalled the fact that, on 27 April 2016, the Metropolitan of the Moldovan Orthodox Church had been invited to Parliament, where he had called for the abolition of the Equality Law.[13]

42. The Special Rapporteur met with representatives of the Moldovan Orthodox Church to seek their views. They stated that the Orthodox Church had not received any contribution from the Government to build temples and that their funding came from donations and fundraising events. They stressed their strong opposition to the Equality Law and emphasized that, in their view, the Orthodox Church, despite being the majority in the country, is the one discriminated against by minority groups.

43. Several members of the various religious minorities expressed their concerns over their negative portrayal in the media, through broad generalizations of perceived characteristics of the group as a whole. Some of them also noted instances of hate speech and referred to the lack of proper sanctioning of hate speech, which they described as a common practice.

44. A study on equality perceptions and attitudes in the Republic of Moldova[14] revealed that the Muslim community is one of those that suffer the most from severe stereotyping, including their identification as "aggressive", "fanatic", "terrorist" and "extremist". The Special Rapporteur received reports by some representatives of the Muslim community of incidents of religious profiling by law enforcement officers when some individuals who had visited Saudi Arabia for pilgrimage purposes had been subjected to searches and confiscation of books at the airport upon their return.[15]

45. Representatives of the Muslim community also stated that they face obstacles regarding obtaining permission to build mosques, despite the fact that there is no legal impediment. To date, there is no mosque in the Republic of Moldova, which has a negative impact on the right of Muslims to exercise their freedom of religion. It was stated that Muslims rely on informal venues, including those of non-governmental organizations and associations, to meet and pray.

46. Increasing acts of vandalism in Jewish cemeteries, instances of robberies in synagogues, including in the Orhei synagogue in March 2016, and anti-Semitic graffiti were reported by representatives of the Jewish community. It was noted that not all perpetrators of those crimes had been arrested and prosecuted.

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[12] See also A/HRC/19/60/Add.2, para. 28.

[13] Transcript of the speech available in Moldovan from http://parliament.md/LinkClick.aspx?fileticket=oXEckM3h3es%3D&tabid=128&mid=506&language=en-USHttps://promolex.md/1489-declaratie-cu-privire-la-readmiterea-declaratiilor-discriminatorii-in-cadrul-sedintelor-parlamentului-republicii-moldova/?lang=en.

[14] See Office of the United Nations High Commissioner for Human Rights (OHCHR), UNDP and the Equality Council, "Study on Equality Perceptions and Attitudes in the Republic of Moldova" (2015), p. 60, available from http://md.one.un.org/content/unct/moldova/en/home/publications/joint-publications/studiul-privind-perceptiile-i-atitudinile-fa-de-egalitate-in-repu.html.

[15] Contrary to the recommendation of the Human Rights Committee in its concluding observations (see CCPR/C/MDA/CO/3, paras. 11 and 12 (c)).

47. Representatives of Falun Dafa expressed deep concern over the situation of their organization. They reported that in 2014 a court ruling declared the Falun symbol (a swastika) in their textbooks as "extremist" under the Law on Combating Extremist Activities, resulting in the organization being dissolved. The Supreme Court of Justice upheld that decision. In 2015, the Constitutional Court declared unconstitutional the provision in the Law on Anti-Extremism that had led to the organization's dissolution (thus rendering the dissolution groundless) and, at the time of writing, the case was still pending before the Supreme Court of Justice for revision.[16]

48. Representatives of the Unification Church reported the case of two of its leaders who had been arrested on human trafficking charges and held in pretrial detention since October 2015. According to the representatives, the charges had been brought by dissatisfied members of the Church who were seeking to take over the leadership of the organization. It was noted that the Unification Church was registered as a religious organization in 2008 and that until 2015 had conducted its activities without major problems, with the exception of periodic denigrating articles in the media. It was further stated that the arrest of the two leaders had been used by some journalists to spread erroneous information and attacks against the Unification Church. A 2016 report by the organizations Human Rights Without Frontiers and the Forum for Religious Freedom-Europe on the case had concluded that the changes against the leaders were groundless.[17]

49. Representatives of the Catholic Church referred to a pending case filed against the Government with respect to the Church's properties that had been expropriated when the country was part of the Soviet Union, and stated there had been a lack of political will to find a solution.

50. Representatives of the Metropolitan Church of Bessarabia informed the Special Rapporteur about the difficult and lengthy process they had undergone in order to be registered as a religious organization, including filing a case against the Moldovan State to the European Court of Human Rights, given the repeated refusal by the Moldovan authorities to register the Church. In its 2001 ruling, the Grand Chamber of the Court[18] found a violation by the State of the right to freedom of religion of the Metropolitan Church of Bessarabia, which paved the way to the registration of the Church.

51. Concerns voiced by the representatives of the Metropolitan Church of Bessarabia included the Government decision No. 740 of 2002 with respect to the administration of religious buildings considered architectural monuments. It was noted that under the decision, 650 churches belonging to the Metropolitan Church of Bessarabia were transferred to the Moldovan Orthodox Church. The representatives also highlighted their concern that the Church archives were considered State property and that they had not been able to recover nationalized property belonging to the Church. They recommended the adoption of a law to regulate restitution of property, in line with the recommendation made by the Special Rapporteur on freedom of religion or belief.[19]

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[16] See also the submission by the Human Rights Resource Group for the 2016 universal periodic review of the Republic of Moldova, available from www.soros.md/files/publications/documents/UPR_Human%20Rights_2016.pdf.

[17] See https://forefeurope.files.wordpress.com/2016/03/2016-hrwf-foref-report-religious-freedom_moldova-in-the-dock.pdf.

[18] See *Metropolitan Church of Bessarabia and Others v. Moldova*, European Court of Human Rights application No. 45701/99, 13 December 2001, available from http://hudoc.echr.coe.int/eng#{"itemid":["001-59985"]}.

[19] See A/HRC/19/60, paras. 63 and 76.

52. Some minority representatives regretted that the process to register a religious organization in the country continued to be lengthy and burdensome. They reported the persistence of discriminatory provisions against non-citizens in the Law on Freedom of Conscience, Thought and Belief, as a minimum of 100 signatories citizens of the Republic of Moldova are needed to proceed to register a religious organization.

VI. Roma

53. During the course of the visit, the Special Rapporteur had the opportunity to meet with various Roma communities in different localities, including Soroca, Otaci, Schinoasa and Chetrosu.

54. There is no exact number of the Roma population in the Republic of Moldova. According to the 2004 census, Roma represent 0.4 per cent of the population, which is around 12,000 people. This figure is not regarded as representative given the reluctance among Roma to self-identify as such due to strong stigma,[20] and the potential deficiencies in the 2004 census. According to estimates of the Bureau of Inter-Ethnic Relations, there are 20,000 Roma, while some unofficial estimates by Roma leaders raise that figure to 250,000. Lack of accurate figures on Roma in the Republic of Moldova poses a serious challenge for planning and implementing an adequate governmental response to the existing problems.

55. The economic, social and political marginalization of Roma and instances of discrimination and xenophobia against their communities were reported by Roma representatives. The Special Rapporteur also received disturbing allegations of instances of abuse and discrimination against Roma by law enforcement officers. One Roma individual stated: "we are still treated like second-class citizens".

56. Reports indicate that, in addition to discrimination in gaining access to the labour market and at the workplace, Roma can be discriminated against in education and health-care institutions.[21] Roma communities are also disproportionately affected by poverty, with more than 50 per cent of Roma households ranking in the poorest wealth segments of the population.[22]

57. The persistence of entrenched stereotypes of and prejudice against Roma, including in the media, was reported as one of the main drivers leading to prejudices, stigmatization and discrimination. In fact, negative perceptions of Roma by the population are widespread: almost 67 per cent of respondents to a survey held the view that the majority of Roma did not work but earned money illegally, including through human and drug trafficking; around 78 per cent held the opinion that Roma usually looked for easy ways to earn money, including through tricks and cheating; and 55 per cent considered that Roma did not send their children to school as a matter of principle, because of their traditions.[23]

58. A different study concluded that the acceptance of Roma people had dropped from 21 per cent in 2010 to 12 per cent in 2014, meaning that only 12 per cent of the respondents

[20] See UNDP, *Roma in the Republic of Moldova* (Chisinau, 2007), p. 34, available from www.undp.md/publications/roma%20_report/Roma%20in%20the%20Republic%20of%20Moldova.pdf.

[21] See L. Malcoci, *Perceptions of the Population of the Republic of Moldova on Discrimination. Sociological Study* (Soros Foundation-Moldova, 2011), p. 25.

[22] See United Nations Children's Fund (UNICEF) et al., *Republic of Moldova: Multiple Indicator Cluster Survey 2012, Final Report*, (Chisinau, 2014) p. 15 available from http://mics.unicef.org/surveys.

[23] See "Study on Equality Perceptions" (footnote 14 above), pp. 39 and 40.

would accept Roma as neighbours, colleagues, friends or family members. That study revealed that a quarter of the respondents thought that Roma should be forced to live in segregated areas because of the perception that they did not integrate, and a fifth stated that Roma should not be allowed in some buildings.[24] In fact, during the consultations held, the Special Rapporteur was informed of a case in which a Roma man had been denied access to a public swimming pool in the locality of Drochia. He took his case to court, which ruled in his favour.

59. The lack of municipal property registration and identity documents were raised repeatedly by interlocutors as having a negative impact on the ability of Roma communities to exercise their rights, including to education, health care and social services. The Special Rapporteur was informed that, although some measures had been taken to address the problem, including the temporary free issuance of identity documents to Roma people, the issue still persists.

60. Following the completion of the Roma Action Plan 2011-2015, which established a number of priority areas to protect the rights of Roma and promote their inclusion in society, including in education, health, housing, employment, culture, media and public administration, the Roma Action Plan 2016-2020 was adopted in April 2016.

61. Many stakeholders with whom the Special Rapporteur consulted stated that, despite the fact that the earlier Roma Action Plan had been a positive development for the protection and promotion of Roma rights, the decentralization reform, which placed the responsibility of implementing a large number of measures in the hands of local administrations and the lack of sufficient funding, among other factors, had resulted in the Plan being poorly implemented, monitored and assessed. In fact, an assessment by the Bureau of Inter-Ethnic Relations revealed that only 37 per cent of its provisions had actually been implemented. Concerns were expressed that, given the lack of budget provision, the current Plan would face similar challenges.

A. Roma children

62. The situation of Roma children is of particular concern. According to UNICEF,[25] Roma children, together with the poorest children and children with disabilities, are worst off in the Republic of Moldova. A child from a Roma community is less likely to have access to health services and more likely to die young. In fact, the Special Rapporteur was made aware of some serious cases regarding Roma children and was distressed to learn of a particular case of a Roma baby with a heart condition who had died after being refused an operation because he had not been registered.

63. There are stark differences in access to health care between Roma and non-Roma groups. According to the World Health Organization,[26] Roma children are less immunized, with 11 per cent of Roma children under 14 years not vaccinated at all, in comparison with 3 per cent of non-Roma children. The reasons mentioned by Roma respondents include lack

[24] See I. Malcoci and A. Barbarosie, *The Phenomenon of Discrimination in Moldova: Perceptions of the Population, A Comparative Study*, (Institute for Public Policy, Chisinau, 2015) p. 31, available from www.soros.md/files/publications/documents/The%20Phenomenon%20of%20Discrimination%20in%20Moldova.pdf.

[25] UNICEF Moldova, "Children of Moldova", available from www.unicef.org/moldova/Children_of_MD_for_web.pdf.

[26] See World Health Organization, *Barriers and facilitating factors in access to health services in the Republic of Moldova*, (Copenhagen, 2012) p. 53. Available from www.euro.who.int/__data/assets/pdf_file/0018/183510/e96775-final.pdf.

of health insurance and information. In fact, reports show that the insurance coverage rates for Roma groups are low, and those groups lack access to medicines and report difficulties in seeing a doctor when needed.[27]

64 In the field of education, the Special Rapporteur was informed that there exist issues with regard to school enrolment, as some Roma children do not attend school regularly owing to the seasonal work of their parents abroad, and some have never been enrolled. Drop-out rates among Roma students were reported to be significantly high. According to data from UNICEF, Roma children are most likely to be out of school in the Republic of Moldova, with 43 per cent of Roma children aged 7-15 not enrolled in school.[28]

65. The Special Rapporteur received credible testimonies of discrimination against Roma children in school, including placing them at the back of the class and being targets of degrading treatment by teachers, non-Roma schoolmates and their parents. She was also informed about the situation of Roma children with disabilities, which is of particular concern given the lack of awareness of their specific needs and challenges and the insufficient financial support provided to them.[29]

66. The Special Rapporteur was pleased to learn about important initiatives that have been implemented to combat discrimination of Roma children and improve their access to education. In particular, she would like to commend the efforts undertaken by local authorities, Roma communities and United Nations actors, including OHCHR, to desegregate schools and promote the participation of Roma children in the school system along with non-Roma students on an equal basis. She visited the Otaci lyceum, where that initiative had proved successful in achieving higher attendance rates in school and had served to combat stereotypes and foster mutual understanding. She encourages authorities to continue efforts to achieve complete desegregation of schools across the country.

67. The Special Rapporteur was informed that, in certain municipalities, vulnerable children, including Roma children, are exempted from kindergarten fees and receive free breakfast. Such measures had been implemented for example in Otaci and had had a positive impact in increasing school attendance rates. The initiative should be further promoted in a systemic manner.

B. Roma women and girls

68. Roma women and girls have been described as one of the most disempowered groups in the Republic of Moldova.[30] They present lower levels of education, higher unemployment rates, lower levels of income and poorer health status than the rest of the population. Roma women are subjected to multiple forms of discrimination both on the basis of their gender and ethnicity.

69. Reports[31] demonstrate that, while obstacles to gaining access to education are significant for all Roma children, some aspects with respect to the lack of realization of the

[27] See D. Mihailov, *The health situation of Roma communities: analysis of the data from the UNDP/World Bank/EC Regional Roma Survey*, (UNDP, 2012). Available from www.undp.org/content/dam/rbec/docs/The-health-situation-of-Roma-communities.pdf.

[28] Ibid.

[29] See also the report of the Special Rapporteur on the rights of persons with disabilities on her mission to the Republic of Moldova, A/HRC/31/62/Add.2, para. 40.

[30] United Nations Entity for Gender Equality and the Empowerment of Women (United Nations-Women), UNDP and OHCHR, "Study on the Situation of Romani Women and Girls in the Republic of Moldova" (2014), available from www.un.md/docsandpub.

[31] Ibid.

right to education are clearly gendered. Child marriage exists in many Roma communities and married adolescent Roma girls often abandon school and take a subservient role in the family, resulting in Roma girls being particularly vulnerable to dropping out of school and experiencing lower rates of education, with social exclusion and health impacts.

70. Roma representatives expressed their concern over the fact that Roma are largely absent from decision-making processes and public life, both at the local and central levels. This is particularly acute in the case of Roma women.[32] While there have been some encouraging advancements, including the election in 2015 of the first two Roma women as local councillors, the participation of Roma women is extremely low in comparison with Roma men and non-Roma communities.

C. Roma community mediators

71. One of the key measures of the previous Roma Action Plan that is also included in the current one was the establishment of a network of Roma community mediators in over 40 targeted communities with significant Roma population, tasked with facilitating the interaction and building bridges between Roma communities and the public authorities. During the visit, it was made clear that community mediators were instrumental in facilitating the social integration of Roma communities. They generally enjoyed a high degree of acceptance and were respected by both Roma and local authorities and their work seemed to be yielding tangible results.

72. The Special Rapporteur was deeply impressed by the dedication and commitment of the Roma mediators to improve the conditions for the Roma communities. In Otaci, she received reports that, thanks to the work of the mediator, Roma parents had started to take their children to kindergarten and that there had been an increase in the number of Roma students attending school. In Chetrosu, the work of the mediator together with Roma parents and local authorities has resulted in all Roma children in the village being enrolled in school. She received similar information with respect to the mediators working in Balti and Schinoasa.

73. Nevertheless, the mediators face serious challenges in performing their functions. In fact, the total number of Roma community mediators, which had been initially intended to be 48, was never met. Moreover, the number of mediators has been significantly decreasing in recent years. Many interlocutors stated that the decentralization reform had left the power to decide about the hiring of mediators in the hands of the local municipalities, which currently suffer from severe budget constraints, inadequate understanding and political will on Roma integration, resulting in the decrease of hired mediators. In addition, the salaries that mediators receive are extremely low, making the job unattractive given the challenges involved. At the time of the visit, fewer than 10 remunerated full-time mediators were working with Roma communities in the country.

74. The Special Rapporteur stresses the instrumental role of community mediators in building bridges between Roma and non-Roma communities and facilitating the social inclusion of Roma, and emphasizes the need to take measures to fill all vacant positions and that sufficient funding be allocated to secure their salaries so they can fully and effectively perform their functions.

[32] See the concluding observations of the Committee on the Elimination of Discrimination against Women on the combined fourth and fifth periodic reports of the Republic of Moldova (CEDAW/C/MDA/CO/4-5), para. 23.

VII. Public participation of minorities

75. Full and equal participation of minorities in public life, including political participation at the national, regional and local levels, is a fundamental pillar of minority rights.

76. A key issue stressed by the vast majority of interlocutors was the underrepresentation of minorities in political institutions, particularly in the central Government, and what was described by some as the marginalization and exclusion of regions with relevant minority populations from the national decision-making processes.

77. A number of interlocutors in densely populated minority regions, including Gagauzia and Taraclia, complained about the lack of consultations and information by the central Government with regard to important processes of reforms affecting them, including the administrative territorial reform.

78. In Taraclia, where Bulgarians constitute almost 70 per cent of the population, the Special Rapporteur heard concerns from a large number of stakeholders with respect to the possibility of losing the status of district and the perception that their concerns were not being taken into account by the central State authorities. Furthermore, some interviewees regretted the lack of Bulgarian representation at the central Government.

79. Representatives from Roma civil society organizations noted the almost non-existent participation of Roma at the political level and regretted the abolishment of the position of "adviser for Roma issues", which had been part of the Prime Minister's Office.

80. The Special Rapporteur learned that a working group consisting of members of the Moldovan Parliament and the Gagauzian Peoples' Assembly had been created to discuss matters of common concern. She hopes that similar initiatives of dialogue between the Government and the regions with a relevant presence of minorities can be replicated and taken further to promote dialogue and trust-building and to address issues of mutual interest.

81. The Special Rapporteur requested information on the staff composition of the different public institutions, including ministries and other government agencies, and learned that, in general, there was a lack of data making it possible to assess in full compliance with standards of personal data protection and privacy the ethnic, linguistic and religious composition of the workforce. She would like to encourage government agencies and public institutions to conduct internal surveys to examine the composition of their staff in order to assess whether the diversity of the population is reflected and take appropriate actions.

VIII. Media

82. Many interlocutors consulted expressed concern that the media did not seem to reflect the diversity inherent to the Republic of Moldova with respect to minorities. While the existence of programmes broadcast in minority languages was acknowledged, it was also noted that the number of hours allocated to them was insufficient, with an average of two hours every two weeks allocated for minority programmes on the public television station Moldova 1.

83. Another issue of particular concern refers to the various reports received during the visit with respect to the propagation of negative and demeaning stereotypes in the media against some minority groups, in particular Muslim and Roma communities. Emphasis on the ethnic or religious background of a person responsible for a criminal offense was described as common and a contributing factor to negative perceptions and generalizations

84. With regard to Roma, the Special Rapporteur was informed that on many occasions they were portrayed as "beggars" and "criminals" in the media, fuelling further anti-Roma sentiments. Some Roma interviewees believed that there should be more success stories of Roma to reflect reality. In the view of some interlocutors, the Audiovisual Coordinating Council, which is tasked, inter alia, with sanctioning powers in case of violations of the broadcasting legislation, should take concrete measures to address and prevent discrimination against minority groups.

IX. Transnistrian region of the Republic of Moldova

85. The Special Rapporteur travelled to the Transnistrian region of the Republic of Moldova, where she had the chance to meet with the de facto authorities and with a number of representatives from civil society organizations. She held consultations in Tiraspol, Rashkov and Kamenka.

86. The de facto authorities stated their adherence to the international human rights legal framework and acknowledged the relevant recommendations presented in 2013 by United Nations Senior Expert Thomas Hammarberg.[33]

87. The Special Rapporteur was informed that the Transnistrian region is home to three main ethnic groups — Moldovans, Russians and Ukrainians — together with other smaller ones, including Armenians, Bulgarians, Gagauzians, Poles and Roma. The three official languages are Moldovan, Russian and Ukrainian. She was made aware that the majority of the population belong to the Orthodox Church, although other religious groups coexist, including Adventists, Catholics, Jehovah's Witnesses, Jews, Lutherans and Protestants.

88. At present, the Transnistrian region also faces serious economic challenges, and a shortage of financial resources was pointed out by both the de facto authorities and civil society organizations as a major concern. Migratory flows from other regions, particularly Gagauzia, and the emigration of young people to neighbouring countries were also noted.

89. A population census was conducted in the region in 2015 but the results were yet to be made public. Civil society representatives stated that the census included a question on ethnic background but did not contain a specific question on religious affiliation.

90. It was highlighted that, despite the fact that Moldovan, Russian and Ukrainian were official languages, Russian was the dominant one in the public sphere. Some interlocutors pointed out that, although official documents included headings in the three official languages, the information contained therein was conveyed primarily in Russian.

91. With respect to education, the Special Rapporteur was informed that Russian was spoken at the vast majority of schools, although Bulgarian and Ukrainian were spoken at some educational institutions and Moldovan Cyrillic script was used at a number of schools. The de facto authorities acknowledged that a number of issues remained with respect to the schools where Moldovan Latin script was used; however, since they did not have access to those schools, they could not verify that the education standards there met those of the Transnistrian region.[34] The authorities noted the existence of scientific and

[33] See "Report on Human Rights in the Transnistrian Region of the Republic of Moldova", available from http://md.one.un.org/content/dam/unct/moldova/docs/pub/Senior_Expert_Hammarberg_Report_TN_Human_Rights.pdf.

[34] See, inter alia, *Catan and others v. Moldova and Russia*, European Court of Human Rights, Judgment dated 19 October 2012, available from http://hudoc.echr.coe.int/eng?i=001-114082; Organization for Security and Cooperation in Europe, The Moldovan-Administered Latin-Script Schools in Transdniestria (Chisinau, 2012), available from www.osce.org/moldova/99058?download=true; and

educational centres at the university level that undertake studies and research on language, including Moldovan.

X. Conclusions and recommendations

92. **The Republic of Moldova is a multi-ethnic, multireligious and multicultural society in which the individual identities of persons belonging to minorities are often multiple and multilayered. It is crucial that this inherent diversity is valued as an important asset and strength of the country.**

93. **Although for the most part peaceful inter-ethnic and interfaith relations prevail and there is a legislative framework generally conducive to the protection of minority rights, a deepening divide along ethnic, linguistic and other communal lines, coupled with political and financial instability and the politicization of the use of languages, have led to heightened tensions in recent years and might threaten peaceful coexistence if not adequately resolved.**

94. **Realizing the rights of minorities is not only an essential means to prevent tensions from emerging but also constitutes an instrumental element of good governance. The Special Rapporteur encourages the Government to make minority rights protection and promotion an important and robust part of its public agenda and human rights planning.**

95. **The Republic of Moldova has made important efforts in shaping a legal and institutional framework to protect and promote minority rights. Those efforts need to be complemented with targeted and strategic actions for an actual implementation. Dedicated and sufficient budget provisions for plans, the strengthening of institutional attention to minority issues, continuous communication and consultation with minority groups and regions with relevant minority populations and the promotion of diversity, including through the reform of the school curriculum, are key to achieving the required results.**

Census

96. **The 2004 census is largely outdated and the Government should make all the arrangements necessary to allow the National Statistics Bureau to process the data and publish the results of the 2014 census as a matter of urgency, and to provide data disaggregated by, inter alia, gender, ethnicity, language and religious affiliation. Such an analysis can be crucial to highlight the vulnerability of the different population groups and to enable legislators and policymakers to establish targeted programmes for them.**

Legal and institutional framework

97. **The Republic of Moldova has adopted a number of laws, strategies, action plans and policies to protect and promote integration of ethno-linguistic groups. The Law on the Functioning of Languages has been applied to regulate language use since 1989. The 2001 Law with Regard to the Rights of Persons belonging to National Minorities and Legal Status of their Organizations sets a basic framework for minority rights protection. The 2012 Law on Ensuring Equality is ground-breaking in the prevention of and fight against discrimination and in ensuring equal rights in political, economic, social, cultural and other aspects of life, including for minorities.**

[1] Report on Human Rights" (footnote 33 above).

More recently, the 2016-2020 Roma Action Plan, the Inter-Ethnic Integration Strategy 2016-2025 and the 2017-2020 Human Rights Plan have been adopted or are in the process of being adopted. The Special Rapporteur urges the Government to develop an implementation road map for the action plans and the strategy and to provide sufficient and secured budget for them.

98. Institutional attention to minority rights should be strengthened. The Special Rapporteur recommends that sufficient funding be provided to both the Bureau of Inter-Ethnic Relations and the Equality Council, given their important roles in monitoring the overall situation of minorities, serving as a bridge to minority communities, ensuring non-discrimination and implementing relevant laws and policies. Furthermore, she recommends that the Government take the steps necessary to expand the functions of both institutions, so they can adequately and comprehensively fulfil their mandates.

99. A dedicated minority rights mechanism should be established in the Government in the form of a permanent secretariat in charge of coordinating minority issues, with the inclusion of representatives of minority communities.

100. The Special Rapporteur encourages the Government to ratify the European Charter for Regional or Minority Languages, which was signed by the Republic of Moldova in 2002, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

101. The Government should consider observing the International Decade for People of African Descent 2015-2024, including the implementation of the Programme of Activities presented by the General Assembly as a framework to help combat discrimination against African-descent people.

Linguistic rights

102. The Government should take the measures necessary to guarantee a quality education in the State language for all, and consider the design and implementation of bilingual and multilingual education programmes to ensure that minorities can learn and receive instruction in their own language/mother tongue.

103. The Special Rapporteur urges the Government to redouble efforts in order to guarantee the free choice to use the State language, Russian or a minority language when addressing public institutions. She recommends that the Government make the official websites available in minority languages. She further urges the Government to guarantee the possibility for minorities to have their names written in compliance with their relevant language standards, and for Russian minorities to have their patronymics issued in their identity cards.

Religious minorities

104. The Republic of Moldova has a wide range of religious and belief groups, and religious freedoms and the rights of religious minorities are to a large extent protected. The Special Rapporteur notes that concerns were expressed to her about the favourable treatment by the State of the Orthodox Church and its influence in determining societal morals and values. She calls on the Government to ensure the implementation of the recommendations regarding religious minorities made by the Special Rapporteur on freedom of religion or belief following his visits to the Republic of Moldova, and to revise the requirement of 100 signatories of Moldovan nationality to register a religious organization.

Roma

105. Roma communities continue to experience economic, social and political marginalization and are often victims of discrimination, particularly when gaining access to the labour market, education and health-care services. The situation of Roma children and women and girls is of particular concern.

106. In order to tackle the long-term marginalization experienced by many Roma communities, it is essential that the new Roma Action Plan 2016-2020 be sufficiently financed and its implementation effectively monitored and assessed. The genuine involvement of and consultation with Roma representatives during the entire duration should be ensured and a specific gender dimension introduced. The creation of a focal point for Roma issues at the governmental and ministerial levels should be considered as a means of providing institutional support and visibility to Roma.

107. Given the importance of the work undertaken by Roma mediators and their positive results in advancing the rights of Roma, the Special Rapporteur strongly recommends that measures be taken to fill all vacant positions and that sufficient funding be allocated to secure their salaries. In that regard, she encourages dialogue between the central Government and the local administrations concerned to negotiate a solution to ensure that mediators can be hired and sufficiently paid in order to perform their functions.

Political participation

108. Full and equal participation of minorities in public life, including political participation at the national, regional and local levels, is one of the fundamental pillars of minority rights. The Special Rapporteur urges the Government to consider adopting measures aimed at ensuring and strengthening the political participation of minorities in the Republic of Moldova and their full involvement in decision-making bodies, including through reserved seats or the redrawing of electoral districts to allow densely populated minority communities to elect their own representatives.

109. The Special Rapporteur recommends the mapping of minority communities and the development of a needs assessment in dialogue with them, in order to identify the communities' needs and jointly consider possible measures to be implemented. In particular, she calls on Moldovan authorities to strongly take into account the minority dimension in its administrative reforms, including in any eventual administrative territorial reform.

Media

110. Minority media plays an important role in preserving the language, culture and identity of minority groups. The Government should consider measures to increase the number of television programmes in minority languages broadcast in public media, in consultation with minority communities.

111. The Special Rapporteur encourages media outlets to maintain the highest standards of ethical journalism and avoid stereotyping individuals and groups, and to implement programmes to train, recruit and support media workers belonging to minority groups.

Education and awareness-raising

112. National curriculums and textbooks should reflect the diversity of Moldovan society, including the contribution of ethnic minorities to the makeup of the country. A substantial review of the subject on civic education should be considered.

113. **The Special Rapporteur encourages government agencies and public institutions to conduct internal surveys to examine the composition of their staff and consider the design and implementation of specific programmes to provide improved access for underrepresented groups to public positions.**

114. **The State should conduct awareness-raising campaigns on the diversity of the population composition of the Republic of Moldova, with the aim of eliminating stereotypes and fostering intercultural dialogue among groups.**

Transnistrian Region of the Republic of Moldova

115. **All of the key decision makers in the Region are urged to redouble efforts to fully implement the recommendations presented by United Nations Senior Expert Thomas Hammarberg and by the Special Rapporteur on freedom of religion or belief, including those related to the mandate of the Special Rapporteur on minority issues. In particular, the Special Rapporteur encourages the regional decision makers to establish a commission with minority members from the region that would serve as a channel to key decision makers.**